THE INGENIOUS PIETY OF THE ANGLICAN CASUISTS: THE CASE DIVINITY OF ROBERT SANDERSON, THOMAS BARLOW, AND JEREMY TAYLOR

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Biographical Sketch

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Preface

The many references to casuistry and cases of conscience in seventeenth-century literature are adequate testimony to the interest with which Englishmen regarded that branch of moral theology which attempted to deal with difficult moral problems. Since casuistry was by its very nature intimately related to contemporary conditions and indicative of the problems vexing men during turbulent years and since the popularity of casuistry as a literary form was in England confined to the seventeenth century, these cases of conscience offer to the modern student a valuable source of information about how men during this period saw their world and how they used the written language to record and analyze the complexities of their experience. Although casuistry flourished in England between 1600 and 1700, it fell into disrepute in the eighteenth century and disappeared as a vital literary form. Since then, students of literature have almost wholly neglected this body of material. Students of the seventeenth century enjoy the religious musings of Thomas Browne, but few read Robert Sanderson. They have rediscovered Donne's sermons and devotions, but Biathanatos and Pseudo-Martyr, which are in the tradition of casuistry, have aroused little curiosity. Joseph Hall is known as a satirist and controversialist, not as a casuist. Jeremy Taylor's sermons and his devotional prose works, Holy Living and Holy Dying, are read, but his casuistical magnum opus, Ductor Dubitantium; or the Rules of Conscience, is all but unknown.

Modern scholarship has done very little to define, evaluate, or make accessible this neglected form. Literary histories and biographies of English casuists have without exception given casuistry extremely cursory treatment. H. H. Henson includes a brief but informative chapter on casuistry in his Studies in Seventeenth Century Religion, and Thomas Wood's English Casuistical Divinity in the Seventeenth Century is an extremely valuable survey of Anglican casuistry. Within their limitations of space and purpose, however, neither Wood nor Henson can do more than sketch, from a theological point of view, the broad outlines of a large and diverse subject. There have been few detailed studies of particular topics. In The Formation of Fuller's Holy and Profane States, W. E. Houghton discusses the impact of casuistry on Thomas Fuller and suggests something of the relationship of casuistry to other prose genres. George L. Mosse treats the political implications of Puritan casuistry in The Holy Presence: A Study in Christianity and Reason of State from William Perkins to John Winthrop, and A. E. Malloch investigates John Donne's relationship with Roman Catholic casuistry in an article in Studies in English

Literature. These studies are rare, however, and deal with the form of casuistry only indirectly. In fact, the question remains open whether or not the case of conscience did constitute a genre of theological literature which can be usefully distinguished from other forms.

In this study I have begun the task of defining and delineating the genre of casuistry as it appeared in England in the middle of the seventeenth century. By examining a limited body of casuistry in detail, I have attempted to elucidate the habits of thought and the literary form presented in some representative cases of conscience. By discussing these cases in the context of other contemporary treatments of similar material, I have attempted to suggest the features of casuistry which distinguish it from other types of theological prose. My efforts to understand the case of conscience have convinced me that casuistry is a distinct genre which is significant for our understanding of the way men during the seventeenth century approached the moral complexities of their lives and of the way they used language in trying to deal with moral problems. Casuistry and the habits of thought which it embodies have implications for literary study broader than the actual cases of conscience. The relationship between casuistry and the literary treatment of moral dilemmas is a fruitful area of investigation, but one which is beyond the scope of this study.

In order to make the unwieldy mass of English casuistry manageable, I have limited my study to the cases of conscience on the subject of unity and uniformity written between 1650 and 1660 by three Anglican ministers, Robert Sanderson, Thomas Barlow, and Jeremy Taylor. Since the variety of problems dealt with is a salient feature of casuistry and since Puritan and Roman Catholic theologians were also prolific casuists, this method of investigation nesessarily distorts the broad field of casuistry and leaves many questions unanswered. My method has the merit, however, of providing some degree of homogeneity in basic theology and external circumstances and of thus constituting a relatively stable background against which the shape of the case of conscience may appear more clearly.

Robert Sanderson, Thomas Barlow, and Jeremy Taylor exhibit important differences in doctrinal dogma, but they may be grouped together as Anglicans on an ecclesiastical basis. They all refused to take the Solemn League and Covenant, and they all assumed important positions in the episcopal church of the Restoration. During the period I have investigated these men were committed to the exiled Anglican church. They found that actual conditions rendered useless their inherited assumptions about the relationship between the individual Christian and a unified national church ordered by ecclesiastical and liturgical uniformity.

Daily they confronted moral and political problems about which they could expect no counsel from the ruling civil and ecclesiastical authorities. The prose works in which they dealt with these problems reveal the strengths and weaknesses of the literary form they used--the case of conscience. The isolation and examination of the casuistry written by these men on the problem of unity and uniformity reveal, I think, how their casuistical treatment of the subject differs from other treatments and makes it possible to formulate the distinguishing conceptual and formal characteristics of the Anglican casuistry on unity and uniformity during a crucial ten-year period.

The cases of conscience on unity and uniformity by Robert Sanderson, Thomas Barlow, and Jeremy Taylor resemble in many ways contemporary discussions of the subject in such prose forms as sermons and political pamphlets. Casuistry is never a pure genre and does not admit of strict definition. These cases of conscience, nevertheless, reveal that their authors conceived of the relation between the individual and the laws which governed his conduct in a way distinct from other writers of the same time and that they attempted to create a literary form appropriate to their conception of the moral nature of human action. They worked within the boundaries of traditional Christian doctrine, but their insistence on the inviolability of the individual conscience, the relevance of particular circumstances to moral absolutes, and the role of reason in resolving problems of moral doubt necessitated a prose form different from any other. The form which they developed was not rigid and was never entirely satisfactory, but, as I will attempt to demonstrate in the following pages, it does constitute an interesting and significant, if minor, Renaissance prose genre.

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Chapter I: The Tradition

I

Casuistical Divinity

In The Country Parson or the Priest to the Temple George Herbert portrays his ideal priest not only as a man learned in the works of the Church Fathers and in contemporary theology but as one who "greatly esteemes also of cases of conscience, wherein he is much versed," because, "herein is the greatest ability of a Parson to lead his people exactly in the wayes of Truth."[1] The case of conscience which the pastor of Bemerton praised so highly was, in the seventeenth century, the characteristic form of casuistry, the branch of theology which attempts to provide the perplexed human conscience with a means of reconciling the obligations of religious faith with the demands of particular human situations. In the case of conscience, the casuist poses, or is posed with, a difficult moral problem and then solves it, often with a startling display of erudition and logical ingenuity. The problems considered in Renaissance casuistry include almost every conceivable kind of human activity. Whether or not a Protestant may marry a Roman Catholic, whether a man must point out the defects of the goods he is trying to sell, whether a man condemned to prison can in good conscience try to escape, whether a promise made under the threat of force obliges--such questions as these are rigorously examined and resolved. English casuists have considered and left their opinions on thousands of questions arising in men's domestic, professional, political, and financial lives.

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[1] George Herbert, The Country Parson or the Priest to the Temple in The Works of George Herbert, ed. F. E. Hutchinson (Oxford, 1941), p. 230.

Roman Catholic, Anglican, and Puritan alike assumed that Christian ethics should regulate all secular activity and that the Church was responsible for guiding men in difficult cases of conscience. The Renaissance produced the notable Catholic causists, Cajetan (1469-1534), Vesques (1551-1604), and Reginaldus (?-1623). In England, such leading Puritans as William Perkins, William Ames, and Richard Baxter published volumes of casuistry, and Anglicans as diverse and prominent as Archbishop William Laud, Bishop Joseph Hall, Bishop Jeremy Taylor, and Bishop Robert Sanderson fostered the development of Anglican casuistry. The number of contemporary editions of their works sufficiently attests to the popularity of the efforts of the English casuists; moreover, much, indeed probably most, of the casuistry produced was never printed. Often, respected casuists were consulted on timely problems and their solutions were never written, or else they existed only in manuscript, sometimes remaining in the possession of the questioner and sometimes circulating widely. For example, although Robert Sanderson was the most prominent English casuist, we have only eleven actual cases of the many that he is reputed to have written. In addition, many cases of conscience are imbedded in sermons and other devotional literature. Jeremy Taylor points out that the most common encounters with casuistical theology were by way of the personal guidance provided to troubled parishioners by their pastors:

> ...only this duty was supplied by excellent preachings, by private conferences, by admonitions and answers given when some more pious and religious persons came to confessions, and as they were upon particular occasions required and invited. But for any public provisions of books of casuistical theology, we were almost wholly unprovided.[2]

The volume of casuistry, then, was great and the esteem in which it was held was high. In their cases of conscience, Puritans, Anglicans, and Roman Catholics combined Christian doctrine with practical wisdom. They applied their faith to the needs of men living in the world and interpreted Christianity in the light of contemporary practical problems.

In a broad sense, casuistry is the process of applying fundamental moral principles to the activities of daily living. A pastor guiding his flock through difficulties to a safe path or a pious layman trying to discover how he can best serve God's will in his own life is essentially acting as a casuist. Casuistry in this sense is, of course, never absent whenever men attempt to live by their principles. As Thomas DeQuincey points out:

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[2] Jeremy Taylor, The Whole Works, ed. R. Heber, rev. C. P. Eden, vol. IX, ed. Alexander Taylor (Oxford, 1854), IX, v.

> After morality has done its very utmost in clearing up the grounds upon which it rests its decisions--after it has multiplied its rules to any possible point of circumstantiality--there will always continue to arise cases without end in the shifting combinations of human action, about which a question will remain whether they do or do not fall under any of these rules. And the best way for seeing this truth illustrated on a broad scale, the shortest way, and the most decisive, is--to point our attention to one striking fact; viz., that all law, as it exists in every civilised land, is nothing but casuistry. ...the name, the word casuistry, may be evaded, but the thing cannot; nor is it evaded in our daily conversations.[3]

In the broad sense of applying general moral principles to particular situations, English casuistry developed gradually. The literature justifying the course taken by Henry VIII in divorcing his first wife and the sixteenth-century discussion of oaths of allegiance attempted to adjust general axioms of moral and legal justice to particular sets of circumstances. But although these political discussions related certain governmental policies to universal moral law, they were not written in the form of cases of conscience. Casuistry as a literary form requiring skill, training and study and demanding the attention of leading theologians was peculiarly a phenomenon of the seventeenth century in England.

The relatively sudden rise of casuistry in the middle of the seventeenth century is an integral part of the complex intellectual and political history of the period. The upheaval of the Reformation had destroyed the traditional system of moral and ecclesiastical discipline. Roman Catholic casuistry was intended primarily to guide the clergy in the confessional, but the reformers rejected the sacrament of penance; the confessional fell into disuse, and the Roman body of casuistry was distrusted. The Genevan system of discipline was not adopted, and the English church was left without a well articulated program for guiding men's consciences. England was slow to develop a casuistry of its own to fill the vacuum. Although the continental tradition stretches back to the early middle ages, England produced no casuists until the end of the sixteenth century. Francis Bacon, who finally tripped in the tangles of seventeenth-century morality, in 1589 criticized English theologians for their failure to produce an adequate instrument to guide men's consciences:

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[3] Thomas DeQuincey, "Casuistry" in The Collected Writings of Thomas DeQuincey, ed. David Masson (Edingurgh, 1890), VIII, 313.

> ...the word (the Bread of Life) they toss up and down, they break it not. They draw not their directions down *ad casus conscientiae*; that a man may be warranted in his particular actions whether they be lawful or not.[4]

The pioneers in this branch of moral theology in England were the Puritans William Perkins (1558-1602) and his student William Ames (1576-1633). Perkins lectured on casuistry at Cambridge at the end of the sixteenth century, and his The Whole Treatise of The Case of Conscience was published posthumously in 1603 and was presumably the base for Herbert's advice. His student, William Ames, published De Conscientia, eius Jure et Casibus in 1630. In spite of this beginning, cases of conscience did not seem to excite very widespread interest or to comprise a vital branch of theology in the early decades of the century. More cases appear in the late sixteen thirties, and during the forties and fifties cases of conscience written by both Anglicans and Puritans abound. Most of Bishop Sanderson's cases seem to have been written during this period, and Joseph Hall, always ready to contribute to a new and popular genre, published Resolutions and Decisions of Divers Practical Cases of Conscience, in Continual use amongst men, in Four Decades in 1649. The major attempts to treat casuistry systematically and to clarify its principles appeared after this period of great activity. Richard Baxter's Christian Directory: or a Sum of Practical Theologie, and Cases of Conscience was written in 1660-1664 and published in 1673, and the two great Anglican treatises on casuistry, Bishop Sanderson's De Conscientii and Jeremy Taylor's Ductor Dubitantium were first published in 1660.

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[4] Francis Bacon, "An Advertisement Touching the Controversies of the Church of England" in *The Letters and the Life of Francis Bacon*, ed. James Spedding (London, 1861), I, 91.

Most attempts to explain the dearth of casuistry in the first years of the English Reformation have followed roughly the account Jeremy Taylor gives in the preface to Ductor Dubitantium:

> The reformation of religion in the western churches hath been so violently, so laboriously, so universally opposed by evil spirit and evil men,...that it was found to be work enough for the ministers to religion to convince the gainsayers, to oppose their witty arts by the advantageous representment of wise truths, so to keep the people from their temptations. But since there were found not many able to do this but such which had other cares to attend, the conduct of souls in their public and private charges, and the consequent necessity of preaching and catechising, visiting the sick, and their public daily offices; it was the less wonder that in the reformed churches there hath been so great a scarcity of books of cases of conscience: though it is not to be denied but the careless and needless neglect of receiving private confessions hath been too great a cause of our not providing materials for so pious and useful a ministration. But besides this, it is certain that there was a necessity of labouring to other purposes than formerly: and this necessity was present and urgent, and the hearts and heads of men ran to quench that fire, and left the government of the house more loosely, till they could discern whether the house would be burnt or no by the flames of contention which then brake out.[5]

The tenuous position of the English Church in the early years of its independent existence absorbed much of its intellectual energy. No doubt, routine parish duties would have prevented many of the conscientious among the over-worked and ill-paid clergy from the task of building an Anglican casuistry, even if they had the requisite training and ability. More important, the great theologians of the sixteenth century were busy defending the church against her enemies. Since the first task facing the apologists of the church during Elizabeth's reign was the opposition of Roman Catholicism, Bishop Jewel's work was directed against Rome. By the time Richard Hooker entered the field in her behalf, the established church was threatened most dangerously by Puritan critics. Clearly, Of the Laws of Ecclesiastical Polity elevated the controversy far beyond the level of the Marprelate pamphlets; still Hooker's magnificent work grew out of the conflict between Canterbury and Geneva.

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[5] Taylor, IX, v.

A deep-rooted suspicion of casuistry within the church itself, however, is more basic to the problem than the need of theologians to counter the fire of Puritan attack. First, the great Roman casuists of the Renaissance were the Jesuits, who continued to be feared in England as active and subversive national enemies. When English theologians turn to casuistry, such Jesuitical terms as "equivocation," "mental reservation," and "probabilism" are used consistently in a derogatory sense, and English casuists are at pains to disassociate their work from the Jesuit variety. They charge the Roman casuists with laxity which panders to human sinfulness. According to Taylor:

> They have made their cases of conscience and the actions of their lives unstable as the face of the waters and unmeasurable as the dimensions of the moon; by which means their confessors shall be enabled to answer according to every man's humour and no man shall depart sad from their penitential chairs.[6]

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[6] Taylor, IX, xi.

The allegation that Catholic casuistry in fact amounted to a complicated system of ratiocination designed to show men how to avoid their clear moral duties is not merely an expression of patriotic feeling against a national enemy. This attitude grows out of the Protestant fear of placing barriers between man and the Word of God. Human intervention, men feared, could only make obscure and difficult what God had made plain and easy. English theologians developed casuistry as a distinct genre only when the very method of discovering moral norms was in dispute. Scripture was consistently held to be the ultimate repository of divine law, but Christian casuistry was needed when there was no general agreement about the way by which the Bible ought to be interpreted or the ultimate authority for Biblical interpretation. Significantly, the first English casuists were the Puritans Perkins and Ames, who were suspicious of the established ecclesiastical authority and wanted to steer the English toward the proper course. The Biblical literalism of the Puritans, however, prevented them from following Perkins and Ames into the intricacies of casuistry in substantial numbers. They did not see the need of perfecting the logical methods of casuistical divinity when the plain truth could be found in scripture. Before the English church produced a casuistry of its own, then, it had to become interested theoretically in the problem of moral authority, and it needed to move away from Biblical literalism. George Herbert recommends cases of conscience for leading people "exactly in the wayes of Truth"; but to many English clergymen the way of Truth was clearly set forth in scripture. Scripture was the guide to right living as well as the source of true doctrine. A man confronted with a problem was not advised to resort to the intricacies of scholastic moral philosophy, but to consult his Bible in order to find a parallel case and to act only with scriptural warrant.

A reaction against strict Calvinistic scripturalism was becoming evident within the English church by the end of the sixteenth century. By the time William Laud was translated to Canterbury in 1633 a High Church party was forming around him. More and more determinedly these men rejected such central Calvinistic doctrines as absolute predestination, and more and more positively they emphasized the ritualistic and ceremonial functions of the Church in spite of Puritan objections. This so-called "Arminian" group also stressed the importance of the tradition of human wisdom and viewed with skepticism the extension of scriptual authority into all practical religious matters.[7] The great Anglican casuists are all more or less closely allied with this group.[8] They regard the Bible as the sole and final authority for the fundamentals of faith. Although they were accused by their opponents of favoring or even being Papists, they consistently censured Rome for presuming to add to the doctrine necessary for salvation beyond the authority of scripture. On the other hand, they criticized the Puritans just as strongly for failing to give due credit to the wisdom of human experience and for restricting Christian liberty by reading scripture too literally and applying it too legalistically. For Anglicans such as Taylor and Sanderson, scripture contained the principles of virtue and afforded examples illustrating these general rules of morality, but man had to supplement these with the wisdom of practical experience, Christian and classical learning, and to adapt these principles to the circumstances of human life by the exercise of logic. The case of conscience is the form this process assumes.

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[7] "Arminianism" refers both to a particular doctrinal position and to a method of religious inquiry. With respect to dogma, Arminianism implied a modification of the doctrine of predestination. With respect to method, Arminianism implied increased emphasis on the powers of human reason. According to John Tulloch, it "revived the suppressed rational side of the original Protestant movement, and, for the first time, organized it into a definite power, and assigned it its due place both in theology and the church." John Tulloch, Rational Theology and Christian Philosophy in England in the Seventeenth Century (Edinburgh, 1874), I, 19.

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[8] Jeremy Taylor was the most "high church" of the three Anglican casuists considered in this study. Thomas Barlow was a Calvinist doctrinally all his life, and, while Robert Sanderson's early Calvinism was gradually modified in favor of Arminianism, he remained Calvinist enough to cause Arminians like Henry Hammond and Gilbert Sheldon considerable uneasiness. Both Barlow and Sanderson, however, participated significantly in the shift of theological method from scripturalism to greater reliance on reason and tradition. See David Novarr, The Making of Walton's Lives (Ithaca, 1958), pp. 414-424, and H. R. McAdoo, The Spirit of Anglicanism (New York, 1965), pp. 31-80.

When the struggle between king and parliament finally erupted into civil war, political history concurred with doctrinal developments to foster English casuistry. The experience of the Commonwealth, the responsibility of leadership, and the failure of the godly to agree upon the form of the new Jerusalem they would build in England, diminished Puritan confidence in the ease with which scriptural models could be transferred to the human situation. The Presbyterians advocated their form of church government as the only one sanctioned by scripture and thus positively required by divine commandments, but they found their allies in opposing king and bishops reluctant to adopt Presbyterianism. As power passed from Presbyterians to Independents and finally disintegrated from the strain of internal dissension, the impossibility of reaching agreement on the divinely ordained form of the church became manifest. Depriving the king and his evil ministers of power and ridding the church of bishops evidently did not open a clear way to the purity of scriptural truth.

The civil war also undermined the Anglican's hierarchy of authority. Parliament's hostility toward the ecclesiastical establishment and the triumph of Cromwell's armies pushed those actively loyal to the church of Charles I into a position of civil disobedience. A new relationship between church and state had to be dealt with in practice even if it were not acknowledged in theory. Inevitably problems of conscience resulted. Nor were difficult moral problems the monopoly of dedicated Puritans and Anglicans. Many men who in normal times would have lived as law-abiding citizens and God-fearing churchmen without undue soul-searching were forced by the dramatic shape of events to examine painfully their basic allegiances. No tidy Elizabethan world picture and no personal apathy can secure a man sucked involuntarily into the vortex of civil war. There were, of course, people who lived out their lives relatively untouched by the affairs of the great world, but for many Englishmen internecine war meant agonizing choices concerning their king, their church, their family and friends, and their most deeply held and cherished beliefs. It is natural for casuistry to flourish at such a time.

The tensions between an individual situation and the eternal verities can become particularly intense and the decision-making process especially difficult when the nature of these verities and the manner of their revelation is in question. Between 1640 and 1660, first the Anglican and then the Puritan establishment was destroyed, and Englishmen were forced to confront serious moral questions at the same time that familiar political and religious institutions were being uprooted and basic assumptions about the nature of man's moral existence were being ruthlessly debated. The way of personal and civic virtue was all but unmarked. "So that there is a wood before your doors, and a labyrinth within the wood, and the locks and bars to every door within that labyrinth, and after all we are like to meet with unskillful guides; and yet of all things in the world, in these things an error is the most intolerable."[9] Cases of conscience are at the height of their popularity during this period.

II

Unity and Uniformity

The problem of unity and uniformity, or the question of the individual man's obligation to the catholic church, was one of the most important cases of conscience men struggled with during this period of unrest. It excited the attention of some of the most eminent and most able men of the time, and it also impinged directly on the lives of the less celebrated. The problem was essentially how to achieve unity of faith in the universal Christian church while preserving the freedom of the individual conscience. As Jeremy Taylor put it, "it is a duty of christianity that 'we all speak the same thing, that there be no divisions among us...'" and it is also true that "every man that 'hath faith, must have it to himself before God.'"[10] The form this problem took in the cases of conscience during the middle of the seventeenth century was a legacy of the Elizabethan religious settlement.

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[9] Taylor, IX, xiii.

[10] Taylor, V, 344. Taylor cites I Cor. i. 10 and Rom. xiv. 22.

The medieval ideal of the union of all Christians in the profession of one faith within the discipline of one church had been modified but not destroyed by the Reformation and the rise of the strong nation-state. Men had not begun to question the validity of St. Augustine's city of God as the ideal of Christian society. The reformers as well as the supporters of the papacy were convinced that there was a body of religious truth which men had to believe in order to attain salvation and that the church was the custodian of that truth. The duty of all Christians to believe the one true faith, to suppress heretical error, and to worship together in the one true church, the body of Christ, was universally acknowledged. The successful challenge of papal authority, however, had shown that men had not yet achieved the ideal of unity through uniform beliefs and religious practices. Men still regarded a visible church, uniform in doctrine and discipline, as vital to the health of the state as well as to the purity of worship, but the supremacy of the individual conscience over the corporate body of the church was proclaimed, and the distinction between the universal invisible church and separate and diverse visible churches was manifest. Before the Reformation, Europe was, in theory at least, a unified religious commonwealth. After the Peace of Augburg this view was modified by the conception, cujus regio ejus *religio*.[11] Henry VIII's break with Rome had not disturbed the ideal of a uniform catholic church, but it had adapted the ideals of unity of faith through uniformity of doctrine and ecclesiastical discipline to the needs of a national church. Henry had no intention of fostering individualism at the expense of order; his reformation of the church was not Protestant as much as it was "dynastic, anticlerical and national in character."[12] Henry VIII was determined that the absorption by the king of the powers claimed by the Bishop of Rome should not disrupt the doctrinal unity of the church or disturb its institutional structure. "He sent to the scaffold those who maintained the authority of the Pope, and who, by so doing, assailed the national independence. He sent to the stake those who preached new doctrines, and by so doing, assailed the national unity."[13] But Henry and his advisers had initiated a more radical change in the church than they intended. Henry's subordination of the authority of the church to that of the state brought problems in the theoretical basis of ecclesiastical authority and in its practical administration which he did little to solve. He had unintentionally opened the doors of the English church to Protestantism.

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[11] See W. K. Jordan, *The Development of Religious Toleration in England* (Cambridge, Mass., 1932-1940), I, 35.

[12] Charles H. and Katherine George, *The Protestant Mind of the English Reformation: 1570-1640* (Princeton, 1961), p. 12.

[13] S. R. Gardiner, *A History of England from the Accession of James I to the Outbreak of the Civil War* (London, 1893-1895), I, 10.

The ideas of Luther and Calvin were current in Europe and exerted a growing attraction for English intellectuals. Under Edward VI the essentially Protestant idea of the priesthood of all believers was accepted, but it did not lead to changes in the church as an institution. Attention was focused on doctrinal unity, and to that end Protestant ideas were promulgated through publication of the Book of Homilies, the Forty-two articles of 1553 and the Prayer Book. Some attempt was made to achieve liturgical uniformity through the Uniformity Acts, but Edward's treatment of religious dissent was fairly mild.[14] The formers of government policy seem to have thought that "once set free from papal bondage, all men would not only believe, but would believe the same thing."[15] The emphasis on the personal relationship of the individual Christian with God, did not, then, significantly weaken the idea of a church unifying Christians in one faith and one discipline.

Mary Tudor took England back to Rome by repudiating the changes made by Henry VIII and Edward VI. She deprived

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[14] Jordan, I, 68-70.

[15] R. G. Usher, The Reconstruction of the English Church (New York, 1910), p. 5. See also Jordan, I, 69-71.

Edward's bishops and all married clergy and abolished the anti-papal legislation of Henry VIII. Her efforts to secure religious uniformity consisted of attempting to achieve doctrinal unity by the obliteration of Protestantism through the fires of Smithfield. Mary Tudor retained the title of Supreme Head of the church used by Henry and Edward, but she punished nonconformity for the sin of heresy, not for the crime of disobedience to the royal authority.

Under Elizabeth, attention moved from doctrinal purity to external signs of uniform allegiance to the state church. Elizabeth does not seem to have had notably intense religious convictions, but since her title to the throne depended upon ratification of her father's break with the authority of Rome, she established Protestantism firmly in England. But the doctrinal change from Catholicism to Protestantism and the institutional change from an international to a national church still did not affect the medieval ideal of a church unified in doctrine and uniform in discipline. In practice, Elizabeth was less interested in the actual operation of the church as a religious institution than she was in the church as part of the state. The important problem was the acknowledgment by Catholics and Protestants of the legitimacy and supreme authority of the Protestant monarch. Religious uniformity became an important test of political loyalty. The identity of nonconformity with treason was firmly established.

Elizabeth's policy of uniformity had to overcome two obstacles, the Catholics and the reforming Protestants who felt that the reformation of the English church was sinfully incomplete. The Catholic problem was complicated by the fact that it was impossible to know what exactly the problem was. No one knew how many Catholics there were or what effect their religion had on their political loyalty. The Marian persecutions and Elizabeth's excommunication by the Pope, which absolved Catholics from their duty of obedience to the Queen, had turned the repudiation of the authority of the hierarchy at Rome into intense national hatred of everything which smacked of the papacy. The penal laws against Catholics were severe. At the beginning of her reign Elizabeth exacted from the Catholics only occasional conformity to the Church of England. After the papal excommunication more stringent penal laws were passed. In theory, no one could be both a good Catholic and a good citizen. English law required that everyone attend the services and receive the communion of the church established by law. A Catholic broke the law every time he attended mass, assisted a Catholic priest, or contributed any money to Catholic causes. If his conscience prevented his attending an heretical church, he had to pay a substantial recusancy fine and was prohibited from accepting any political preferment or taking a degree from a university.[16]

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[16] Usher, p. 131.

In spite of the stringency of the laws of uniformity, there were undoubtedly a good many English Catholics who looked hopefully for a time when Englishmen would all return to the faith of their fathers and the English church would submit to the discipline of Rome and return to the traditional forms of worship established by the church. In the meantime, some Catholics conformed outwardly, attending their parish churches and hearing mass in the secrecy of their home or the manor house of one of the Catholic lords. Other Catholics paid their recusancy fines for the privilege of not attending church and suffered the civil disabilities imposed by the laws. The number of conforming Catholics made it difficult to assess Catholic strength with any accuracy, but it was generally believed that they were a large and dangerous group.[17]

When Elizabeth came to the throne, there were probably many men who preferred the old ways of worship and would have eagerly returned to them if the leaders of the church had so decreed but were nevertheless completely loyal to the crown and the religious establishment. Even among the men who were loyal to the Pope and attended mass when possible there were two schools of thought about the Catholic's place in the commonwealth. The secular clergy who had been operating secretly in England since the time of Henry VIII were intent on securing tolerable conditions within the state for English Catholics by convincing the queen of their political loyalty. The strong Jesuit mission, on the other hand, had come to England to bring her back to the fold. They were determined to convert Englishmen to the true church by whatever means were necessary, including violence.

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[17] According to R. G. Usher, contemporary guesses ranged from an overwhelming majority of the population to about one-fifth. He estimates that there were by 1600 between 750,000 and 1,000,000 Catholics out of a total population of about five million, of whom perhaps ten per cent actually sympathized with the forcible recovery of England and for the Church through the force of Spanish arms. Usher, pp. 133 and 159.

Elizabeth's government protected its stability from the threat of militant Catholicism by exploiting the bitter rivalry between these two factions as well as by the strict laws against Catholicism. The penal laws, however, were used with discretion. Although penalties were severe, the laws were never systematically enforced. Elizabeth regarded them as a potential weapon to be used in case religious activity should conflict with the interests of the state.[18] By this cautious application of her power Elizabeth was able to retain in theory the power to establish one national church unified in faith and uniform in doctrine without alienating the substantial Catholic group of her subjects. Her own position, however, made it impossible for her to give legal status to the principle on which she really worked. When Archbishop Richard Bancroft attempted to cement the loyalty of Catholics and to weaken the militant Jesuit organization by a promise of liberty of conscience in exchange for complete loyalty in all temporal matters, the daughter of Anne Boleyn, who had been declared illegitimate, a heretic, and a usurper by the Pope, refused to make concessions. "These men," she declared,

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[18] Jordan, I, 114-116, 163-177.

> perceiving my lenity and clemency towards them, are not content, but demand everything, and wish to have it at once. The King of France truly may without peril of honour, life or kingdom, grant liberty of religion to the Huguenots, but it is not so with me, for, if I grant this liberty to the Catholics, by this very fact I lay at their feet, my honour, my crown and my life.[19]

The second group which posed a threat to the Elizabethan religious settlement were the Protestants who believed that the Elizabethan church was corrupt because it was insufficiently reformed and purified by the unchristian excrescences of Catholicism. Out of this group historic Puritanism developed. Many of these men had been Marian exiles and returned to England after having absorbed more thoroughly Calvinistic principles than they had held under Edward. Originally they asked for no more than leniency on the part of the bishops and freedom to follow their consciences in ceremonial details.[20] Gradually, however, it became clear that the Puritans wanted to change completely the external government of the church, not only abolishing such suggestions of Catholicism as the surplice, kneeling at communion, the ring in the marriage ceremony, and the cross in baptism, but substituting the Presbyterian classic system for episcopacy. Almost all English churchmen at this time were Calvinists in theology, believing in man's fall, his natural corruption, his regeneration through grace, and the final perseverance in grace of the elect.[21] Ironically enough, the dispute between the Puritans and the party which emerged to defend the church as it was established revolved around actions technically called "indifferent," that is, those things neither explicitly commanded nor prohibited by scripture. The church assumed the authority and the responsibility of regulating such indifferent things as external forms of worship and ecclesiastical structure. The Puritans held that all doctrines and forms of worship not directly established by scripture were unlawful. Related to this principle was the Puritan belief that emphasis on religious ceremony was inconsistent with a vital personal religion.[22] Presbyterianism, they declared, was the divinely ordained system of government for the church; episcopacy was a wicked popish innovation. They too wanted a uniform national church, but they wanted to organize the Church of England on the lines of the Genevan model. They agreed that the monarch should enforce uniformity, but they argued that the doctrine and discipline of the church should be based on scripture as interpreted by godly ministers, not established by the Queen and Parliament. The Whitgift-Cartwright controversy of 1572-1573 was an early public debate over the Elizabethan church's position with regard to Puritanism. Whitgift was as Calvinistic doctrinally as Cartwright, but he denied the theory of divine-right Presbyterianism and defended the church's authority over indifferent things. The Bible, he agreed, was the supreme authority in dogma, but he argued that the church under the sovereign was free to establish and to change liturgical, ceremonial, and administrative procedures.[23]

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[19] Quoted in Usher, p. 166.

[20] Usher, pp. 39-40.

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[21] See N. Pocock, "Restoration Settlement of the English Church," English Historical Review, I, 677-698.

[22] J. W. Allen, English Political Thought, 1603-1660 (London, 1938), p. 266.

The Puritans found much to object to in The Book of Common Prayer which Elizabeth's Uniformity Act of 1559 had enjoined on all the clergy. Some ministers used only small parts of the Prayer Book service and others did not use it at all.[24] In spite of laws against private meetings and unlicensed printing and official discouragement of "prophesyings" or preaching, the Puritans organized and enthusiastically spread their ideas through petitions to the government for the redress of grievances, publications such as the famous Marprelate pamphlets, and the able preaching of such men as Walter Travers, Thomas Cartwright, and John Dod.[25] Cambridge became a center of Puritan thought and a training ground of Puritan preachers. Gradually the Reformers' influence grew and they attracted followers among both the wealthy and influential and the lower classes. Elizabeth's reign, moreover, saw Puritanism develop not only in strength but in diversity. Cartwright and his followers used scripturalism to attack certain practices in the Church of England and to justify the Genevan form of government, but they were orthodox Calvinists in theology. The emphasis on the Bible as the sole criterion of truth and on the personal religious experience of the individual, however, gradually produced criticism of Calvinism. Men searched the scriptures for truth and discovered ideas which appalled the early critics of the establishment. Sects and factions proliferated, and the men who had never meant to abandon the historic church but simply to reform it along Presbyterian lines became the right wing of a highly diverse and increasingly radical party of opposition.[26]

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[23] Jordan, I, 137-151.

[24] W. H. Frere, The English Church in the Reigns of Elizabeth and James I (London, 1904), p. 266.

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[25] See William Haller, The Rise of Puritanism (New York, 1938), Chapter I.

[26] Haller, p. 15.

Under Elizabeth, most of the reformers were nonconformists trying to purify the church from within, but on the fringes of the movement were men who denied that the magistrate had any lawful power over the true church, which must reform itself at once without waiting for the state and the unregenerate Church of England. William Browne gathered a small group of disciples together on this separatist basis as early as 1589.

Elizabeth, of course, had no intention of succumbing to the demands of the Presbyterians, much less to those of a radical like Browne. She was no religious zealot in her support of episcopacy, but she could not accept the subordination of the civil authority to the ecclesiastical implicit in Presbyterianism or the democratic ideas of the radicals. She had no intention of watching religious enthusiasts wreck the delicately balanced ecclesiastical settlement she had created, and she handled the problem with her customary shrewdness. She maintained firm control over the Puritans but did not attempt to obliterate them. The Oath of Supremacy, the Uniformity Act, various laws originally designed to control Catholics, and, later, the Conventicle Act were used to check Puritan activities. Occasionally a Puritan preacher whose activities became troublesome was ejected from his position in the church or university or imprisoned. The separatists, John Greenwood and Henry Barrow, who refused the Oath of Supremacy and repeatedly defied the authority of the government in religious matters, were hanged.[27] In general, however, Elizabeth's political shrewdness kept her from persecuting any sizable group of her subjects. Beyond evidence of loyalty to the crown, she was not particularly concerned with the religious opinions of her subjects. As long as the Puritans did not actively disobey her, she was usually content to let them go their own way and not to inquire very closely into what they believed.

The Elizabethan religious settlement was not, then, the external manifestation of a particular religious doctrine. If Henry VIII had not been determined to marry Anne Boleyn and if the Pope had not called their daughter Elizabeth a bastard, the effects of the Reformation in England might have taken quite a different shape. As it was, Elizabeth consolidated her power on the foundations of the church her father had established. She met the problem of religious dissent by using force with discretion and invoking the traditional concept of the responsibility of the Christian prince to protect religion. She met the resistance to the subordination of the church to the state by basing the power of government in religion and the requirements of uniformity not on spiritual grounds usually, but on political arguments and the need for decency and order.

The greatest defender of the Elizabethan church was, of course, Richard Hooker. Hooker wrote to defend the religious establishment against the encroachments of Puritanism at the end of Elizabeth's reign and played no part in shaping governmental policy, but Of the Laws of Ecclesiastical Polity was an attempt to provide a reasoned exposition of that policy which Elizabeth herself had never cared to make consistent. The unity of the visible church, Hooker argued:

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[27] Frere, pp. 258-265.

> consisteth in that uniformity which all several persons thereunto belongeth have, by reason of that one bond whose servants they all profess themselves, that one Faith which they all acknowledge, that one Baptism wherewith they are all initiated. The visible church of Jesus Christ is therefore one, in outward profession of those things, which supernaturally appertain to the many essences of Christianity, and are necessarily required in every particular Christian man....Of the signs of this required outward profession...one of the very chiefest is Ecclesiastical Polity.[28]

According to Hooker, the basis of all authority is law which derives from God. The law of God is not merely contained in scripture but is the divine order which permeates all parts of creation. Law, he says, is "that which doth assign unto each thing the kind, that which doth moderate the force and power, that which doth appoint the form and measure of working."[29]

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[28] Richard Hooker, Of the Laws of Ecclesiastical Polity in The Works of...Mr. Richard Hooker, ed. J. Keble, rev. R. W. Church and F. Paget (Oxford, 1888), III, i, 14.

[29] Hooker, I, ii, 1.

Since law is the inherent principle of order governing the universe, natural law as well as supernatural law has a place in the scheme of things. A law is "a directive rule unto goodness of operation," and, in relation to human action, the law of nature is the law of reason which consists of "all those things which men by the light of their natural understanding evidently know...to be...virtuous or vicious, good or evil for them to do." The law of reason is known through man's exercise of his own power of analysis and through tradition, "For that which all men have at all time learned, nature herself must needs have taught."[30] Man must discover through reason the truth about many things which are not specifically covered in the Bible.

Thus, for the Presbyterian belief that there is one law for Christians, the law of scripture, Hooker substitutes a vast hierarchy of laws which man perceives through his reason. The Bible includes some natural law, but it is primarily a source of knowledge of supernatural law. The law of nature leads men to join together in societies, and supernatural law teaches that a visible church is necessary for the preservation of the Christian faith. But the rules which govern the societies of men are not prescribed by scripture or by the laws of nature. Men have the right to choose their forms of government and to make laws according to the general axioms of scripture and the laws of nature.

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[30] Hooker, I, vii, 4; I, viii, 9; I, viii, 3.

One of the most important points in Hooker's analysis of the hierarchy of laws is the distinction between natural law and positive law.[31] Natural laws are universal and immutable, while positive laws are limited and subject to change. The human laws which determine the polity of church and state are positive laws. Life would be intolerable without organized society, and the maintenance of society presupposed the right to make laws. This right is derived from the law of reason and extends to all things which are not contrary to the law of reason or the law of God. Since in England church and state are inseparable, the right to make laws over indifferent things resides in the Crown and Parliament. The Catholic Church is divided into a number of national churches whose ecclesiastical laws differ and may change. As long, however, as these laws are not contrary to the laws of God and the laws of reason, as the laws of the Church of England are not, they have complete moral authority over individual men.

In this way Hooker answered the Puritans' objections that the laws of the Church of England were not justified by scripture. He adopted many of the arguments Whitgift and then Bancroft had used in controversy with the Puritans. He asserted, just as the ministers of Henry VIII had asserted, the intimate connection between church and state. Man is in one capacity a member of the state and in another capacity a member of the church. The government, parliament and crown, represents both church and state and makes laws for both. Disobedience to these laws cannot be tolerated. Scripture does not specify a particular form of church government but leaves the church free to arrange such indifferent things according to the requirements of decency and order.

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[31] L. S. Thorton, Richard Hooker: A Study of his Theology (London, 1924), p. 31.

These were the standard Anglican arguments against the objections to the laws of the church; the Puritans responded by appealing to scriptural authority to justify their views.

Hooker's real contribution was his clear recognition that the argument basically was about the question of authority. His answer to Puritanism was not to defend a rival theological and ecclesiastical system but to propose a rival theological method.[32] The Puritan method was to appeal to the authority of scripture in all questions. Hooker, instead of contenting himself with debating the Puritans on their own terms, the interpretation of scripture, attempted to show that the Puritan approach to the problem of religious authority was inadequate. He set himself, therefore, the task of showing that human laws and institutions could be justified on a basis other than the authority of scripture.

Hooker does not give a clear-cut defense of the basis of political authority, and he does not provide satisfactory solutions to the problems of conscience which led many Puritans to disobey the laws of the Church of England.[33] He agrees that scripture is the only authority for essential Christian doctrine, that the individual human conscience is supreme, and that man must disobey the laws of men when they are contrary to the laws of God. He has no convincing answer for the Puritans who believe in conscience that the things he calls indifferent are, in fact, essential points of doctrine. He is unable to resolve the contradiction inherent in a national church which requires uniformity in externals and yet professes freedom of conscience.[34] His exposition, however, of a theological method which defended the authority of tradition and reason as well as of scripture gave Anglicans a more flexible and sophisticated approach to the problems of the church. Hooker did not write, as C. S. Lewis has pointed out, "to defend the freedom of the individual," but rather "to defend the freedom of Man from what he believe[d] to be a false conception of supernatural authority."[35] Implicit in *Of The Laws of Ecclesiastical Polity* is the belief that a narrow scripturalism and a rejection of the authority of the established church will lead either to moral chaos, if man need not obey laws except according to his own interpretation of scripture, or to tyranny, if men are tied to one interpretation of scripture such as Calvin's and are denied the freedom to use tradition and reason. In this situation, the church is deprived of its freedom to change.

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[32] McAdoo, p. 1.

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[33] See E. T. Davies, *The Political Ideas of Richard Hooker* (London, 1946), pp. 65-75 and Peter Munz, *The Place of Hooker in the History of Thought* (London, 1952), pp. 101-105.

[34] Jordan, I, 224-238; F. John Shirley, *Richard Hooker and Contemporary Political Ideas* (London, 1949), p. 120.

[35] C. S. Lewis, *English Literature in the Sixteenth Century* (New York, 1944), p. 453.

The Elizabethan settlement of the religious problem defended by Hooker accomplished its primary goals. Elizabeth won the support of the vast majority of her subjects, and she gave England comparative religious peace. But she by no means solved the fundamental religious problems in England. Two large minorities remained acutely dissatisfied with the established church, and the church itself was beset with internal weakness and widespread religious apathy. The medieval church, which had once furnished a vital spiritual center and a satisfying discipline in harmony with the social environment, had decayed, and the Tudor monarchs did little to revitalize it. Elizabeth required political loyalty of her clergy, not but loyal adherence to the rites and ceremonies of the church, doctrinal soundness, education, or ability. Many of the rural clergy were uneducated. Most benefices were controlled either by the Crown, which appointed men who were politically safe regardless of their qualifications, or by the laity, who often distributed them among their friends or relatives or sold them to the highest bidder. Absenteeism and pluralism were common.

These abuses could not easily be corrected because of the economic condition of the church. Ecclesiastic incomes were low and royal taxes were high, so that few benefices were sufficient to support a man and his family.[36] Thus the established church was riddled with incompetence, ignorance, and laxity, and Puritan criticism of the church was nourished by these abuses. The Puritan solution was to call upon Elizabeth to remedy them by replacing the bishops with a strong preaching ministry. Elizabeth's solution was to insist on the authority of her bishops but to prevent them from strengthening the church or rectifying its abuses.

Elizabeth's religious policy was, then, to maintain theoretically the ideal of unity of doctrine with uniformity of discipline without actually attempting to apply it very rigorously or consistently. She insisted on complete civil obedience and the power of the state over religion. She preserved the skeletal form of a uniform national church while allowing in fact considerable freedom of thought and action. The church she established comprehended a wide variety of men. It was supported by a state that claimed the right to preserve religious uniformity, but which also distinguished between external signs of nonconformity and the inviolate private conscience. The conflict between the rights of the established church and the rights of the individual conscience was controlled only through evasion. In the seventeenth century men continued to struggle with the problem in much the same terms as Hooker and his colleagues had used.

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[36] Usher, pp. 207-243.

When James I came to the throne his position with regard to the problem of the church was clear: "I will have one doctrine and one discipline, and one religion in substance and in ceremony."[37] Although few men could have believed that the occasional conformity required by the existing church actually achieved unity and uniformity, all of the important groups in England accepted the ideal of a unified national church just as James did. They disagreed violently, however, about what kind of uniformity should be imposed. The Anglican approach to the problem was to attempt to define and to apply in practice the assumptions behind the Elizabethan church. Working on the assumption that if the unity of the church was not to be a legal fiction some logically coherent statement of doctrine and ecclesiastical law was necessary, Richard Bancroft, the new Archbishop of Canterbury, attempted to codify the system of belief contained in the chaotic injunctions and articles of Elizabeth's reign. The result was the canons of 1604, to which the Puritans objected by repeating the arguments they had developed under Elizabeth. Again they objected to the required subscription to the Oath of Supremacy, the Prayer Book, and the Articles and asked for relief on the grounds that their consciences prevented them from bowing to a human law which they believed was contrary to the law of God.[38]

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[37] James I at the Hampton Court Conference, quoted by Allen, p. 124.

This conflict repeated itself often during the reigns of James and Charles I. In the years before the civil war the development of ideas and events altered men's thoughts about the nature of the church and the relationship of church and state, but the problem of unity and uniformity remained essentially unaltered. The Calvinism of the English church was increasingly modified by the influence of what was called Arminianism, and the clergy came increasingly to rely on the authority of the king alone rather than on the king in parliament.[39] Laud's theology was different in several respects from that of the Elizabethan clergy. He maintained the right of the clergy to formulate the doctrine and discipline of the church without Parliament. He repudiated such Calvinistic doctrines as predestination and justification by faith alone and placed greater emphasis on the sacraments and rites of the church than had his predecessors, greater indeed than most of his colleagues did.[40] His approach to the problem of the unity of the church, however, was an extension of Bancroft's work on reconstruction, and his theoretical position was fundamentally that of Whitgift and Hooker.[41] The bitterness which Laud's policy created grew out of the way in which he used his authority and where he chose to draw the line between acceptable and unacceptable expressions of individual opinion. He maintained that the church had the right to make laws and that the individual was obligated to obey these laws and to submit his private judgment to that of his lawful superiors. Although he believed in the inviolability of the individual conscience and was willing to allow a high degree of intellectual freedom, he also believed that the church was responsible for the Christian unity of the people, and his conception of Christian unity within the church involved definite uniformity in the conduct of public worship.[42] "Unity cannot long continue in the Church where uniformity is shut out at the church door," he said. "All that I have laboured for in this particular was that the external worship of God...might be kept up in uniformity and decency....I found that with the contempt of the outward service of God, the inward fell away apace."[43]

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[38] Allen, p. 143, and Frere, p. 315.

[39] The Canons of 1604 were enacted on the authority of the King and the Convocation without the consent of Parliament; this marked the beginning of the allegiance between Parliament and the Puritans in opposition to that between the King and the Church. Laud's attempts to reform the abuses of pluralism and non-residency by recovering benefices from the control of laymen were opposed by Parliament and forced him into closer cooperation with the monarch. George, p. 15.

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[40] The modifications of Calvinism began, of course, under Elizabeth and can be found in Hooker. Whitgift disavowed divine right episcopacy, and Hooker is ambiguous on the subject. Both Hooker and Whitgift attributed the supreme governing power over the church to the king and parliament.

[41] George, pp. 361-363.

[42] Haller, pp. 233-234.

Laud's attempts to act on these beliefs certainly contributed to the alienation of the Puritans and the outbreak of the war. Laud believed, as Hooker did, in the intimate connection between church and state, but he was forced to recognize, in a way that Hooker was not, that the union of church and state was not a fact but an ideal. His attempt to realize this ideal was his policy of "thorough." By means of the Court of High Commission, Metropolitan Visitations, and strict control of the press and of the pulpit, he tried to bring all of England into an inclusive national church unified in a common doctrine and discipline rather than merely in name. He could not succeed because Puritanism had become too firmly rooted a part of English religious life, because the growing strength of the High Church of Arminian clergy whom he favored was increasing the Puritan resentment of the established church, and because the fate of the Church of England was inextricably linked with the conflicts of opinion over constitutional questions which led to civil war.

The Anglicans of the interregnum were faced with the same inconsistencies which had plagued the theorists of the church since Elizabeth's time. They still believed in the authority of the visible church unified in doctrine and discipline and in the sanctity of the individual conscience. Suddenly, however, they, rather than the Puritans and Catholics, had to examine their consciences in order to decide whether swearing to oaths of allegiance would involve repudiating their most deeply held beliefs and whether to remain within the national religious settlement which they believed to be unlawful or to suffer the civil and personal disadvantages of joining an underground religious movement which the civil authorities regarded as treasonable. The following chapters will be concerned with the written cases of conscience in which they attempted to resolve these problems.

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[43] William Laud, Works, ed. J. Bliss and W. Scott (Oxford, 1847-1860), IV, 60; III, 407-408.

CHAPTER II

The Godly Discretion of Robert Sanderson

I

The Historical Context of "The Case of the Engagement"

The traditions of a unified national church and an inviolable individual conscience produced during the interregnum difficult problems of civil and ecclesiastical loyalty for men of all political and religious persuasions, but living in Cromwellian England with royalist and episcopalian sentiments was particularly difficult. The extent of Anglican persecution is difficult to determine. According to the most reliable estimate 2,425 out of 8,600 livings were sequestered; 3,205 Anglicans were expelled from their livings or university positions under the Commonwealth. Another 400 retained their livings but suffered harassment.[1] These figures are high enough in terms of human suffering, yet, notably, 70 per cent of the parishes in England were not sequestered. Since only 1,760 clergymen lost their livings at the Restoration, this percentage fails to reflect the extent of Anglican sympathies even ten years earlier.[2] Clearly, a good many Anglicans escaped detection or reached some kind of accommodation within the new regime. There was, then, little uniformity of Anglican conduct under the Commonwealth. As Professor Robert Bosher has pointed out, the pressures of government hostility forced into open divergence, and often actual conflict, two views of Anglicanism which had lived together uneasily within the church since the time of Laud.

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[1] A. G. Matthews, Walker Revised (Oxford, 1948), pp. xiii ff.

> To the Laudian party, the Church of England, as the national embodiment of historic Catholic faith and order, continued to exist by divine right though ousted from the establishment. Its legal status but not its constitution could be affected by the action of a usurping government. Its mission was to go out into the wilderness, and maintain its witness unimpaired in opposition to the schismatic body that had dispossessed it. To those termed "moderate Episcopalians," Anglicanism was a matter of conservative sentiment rather than ecclesiastical allegiance. So long as liberty of conscience was secured, accommodation within the Establishment was perfectly possible, even though rival views were for the time being predominant.[3]

Thus, each Anglican had to deal with some form of the fundamental problem of his relationship with the new establishment and the old ecclesiastical hierarchy. Some completely repudiated and actively opposed the usurpers. Of these, some waited on the continent for a better day while some remained in England and suffered persecution. Other Anglicans reached some kind of modus vivendi under the new government. Unity of faith with uniformity of discipline was no longer possible, and each man had to reckon with his conscience. The confused and qualified allegiances of this period are well known through such poems as Marvell's "Horation Ode" and Milton's political sonnets, the histories of Clarendon and Fuller, and the voluminous political tracts such as Eikon Basilike and The Tenure of Kings and Magistrates. The experience of the Commonwealth also received less well known expression in cases of conscience.

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[2] A. G. Matthews, Calamy Revised (Oxford, 1934), pp. xiii-xiv.

[3] Robert S. Bosher, The Making of the Restoration Settlement: The Influence of the Laudians (New York, 1951), p. 14.

The most famous casuist among the Anglicans was Robert Sanderson, rector at Boothby Pagnol, Professor of Divinity at Oxford, and, after the Restoration, Bishop of Lincoln. Sanderson wrote two cases of conscience during this period which deal explicitly with ecclesiastical unity and uniformity, "The Case of the Engagement" (1650) and "The Case of the Liturgy" (1652).[4] The first of these concerns a loyalty oath, a moral problem that, while certainly not limited to the seventeenth century, was made chronic during this period by the numerous oaths of allegiance required by the changing governments. In 1650 Parliament, frightened by Charles II's negotiations with the Scots and by the growing royalism of English Presbyterians, imposed a new oath of allegiance:

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[4] The Works of Robert Sanderson, ed. William Jacobson, 6 vols. (Oxford, 1854), V, 20-57--hereafter cited as Sanderson, Works. I have given dates of composition for the two cases parenthetically.

> I do declare and promise, that I will be true and faithful to the Commonwealth of England, as it is now established, without a King or House of Lords.[5]

Modern historians still disagree radically on the import of the oath. One scholar calls it "the slightest test of allegiance that any government could require," while to another it was "as foolish as it was tyrannical."[6] The wording of the oath does not seem particularly severe, and we know that the government had considered and rejected the more rigorous phrase, "to maintain the same as it is now established against King and Lords."[7] Still, even in its final moderate form the oath could hardly have been welcomed by royalists. Many who refused to take the Solemn League and Covenant with its rejection of bishops took the new oath. Others refused, lost their benefices and university positions as a result, and were condemned to the anguish of trying to provide for their families by the charity of their friends. William Sancroft, Edmund Pocock, and Richard Lovell resigned rather than engage.[8] Henry Hammond and Gilbert Sheldon, staunch high churchmen who were attempting to present a solid and unyielding Anglican resistance against the revolutionary government, opposed subscription to the Engagement.[9] Hammond advised Richard Lovell to refuse to engage, writing to Sheldon, "I could not advise him to take it, though I think his excuse more justifiable than any man's."[10] Nor was the problem confined to Anglicans. Many Presbyterians opposed the oath and refused to subscribe. Richard Baxter complained, in fact, that most Presbyterians suffered for their refusal to engage while the hypocritical Anglicans subscribed.[11] The Independent

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[5] Samuel Rawson Gardiner, ed., The Constitutional Documents of the Puritan Revolution (Oxford, 1906), p. 39. Sanderson gives the text of the oath as "I do promise to be true and faithful to the Commonwealth of England, as it is now established without King or Lords." Works, V, 28.

[6] Henry Hallam, The Constitutional History of England (New York, 1862), II, 227. Samuel Rawson Gardiner, History of the Commonwealth and Protectorate 1649-1660 (London, 1894), p. 216.

[7] Bosher, p. 14.

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[8] Bosher, p. 14.

[9] Sheldon was a staunch royalist and episcopalian throughout the civil wars, but until about this time he managed to carry on from within the new ecclesiastical order. See Vernon Staley, The Life and Times of Gilbert Sheldon (London, 1913), pp. 19-21.

[10] Harleian Mss. 6942 f. 131, cited by Bosher, p. 15.

[11] Edmund Calamy, An Abridgement of Mr. Baxter's History of his Life and Times (London, 1702), p. 62.

Sir Thomas Fairfax refused to sign a similar oath first in 1649 when it was administered to members of the Council of State and again in 1650 refused to engage.[12]

Among those puzzled about how to act with regard to the new oath was Thomas Washbourne, the son-in-law of Dr. John Fell and a rector in Gloucestershire. He wrote to Robert Sanderson for his opinion on a case of conscience, asking whether he could "without making shipwreck of a good Conscience take the Engagement." He explains with pathos but puzzling imprecision that refusal to subscribe endangers his church living and his ability to support his wife and "five or six small children." He does not want "precipitously [to] ruin myself in my temporal estate by an over-preciseness in refusing what is not repugnant to the Rule of Faith," nor does he want to be guilty of disloyalty to his king.[13]

Robert Sanderson was well qualified to handle a case of conscience on an oath. He had lectured on the obligations of oaths and vows at Oxford in 1646, and in 1647 had supplied the rationale for Oxford's resistance to the Solemn League and Covenant.[14] His reply to Washbourne is a case of conscience on the problem presented by the new oath.

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[12] Gardiner, History of the Commonwealth, p. 275.

[13] Jacobson prints Washbourne's letter immediately preceding Sanderson's case. Works, V, 17-19.

II

Summary of "The Case of the Engagement"

Sanderson divides the body of his letter to Washbourne into six major parts. In the first section he summarizes briefly the nature of political allegiance and posits the basic moral problem which the new oath has presented. He assumes that the law of nature had implanted in all men the knowledge that they owe allegiance to their country and to its sovereign power and that, therefore, any act contrary to that allegiance is a sin against the conscience. Thus any man who believes that the king and his lawful heirs constitute the sovereign power of England and who believes that the Engagement oath is a repudiation of his true allegiance may not subscribe without sinning against his conscience. Parts II through V of the case analyze the problem of whether or not the oath in question involves such a repudiation. In part II Sanderson concludes that the oath may be interpreted in a way compatible with loyalty to the king on the basis of three factors: the unavoidable ambiguity of language, the rumor that the King has condoned subscribing to the oath, and the fact that some men loyal to the King have taken it. Part III then answers a series of crucial questions:

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[14] Robert Sanderson, De Juramenti Promissorii obligatione Praelectione Septem (Works, IV); Reasons of the Present Judgment of the University of Oxford concerning the Solemn League and Covenant, the Negative Oath, the Ordinance concerning Discipline and Worship (Works, IV)--hereafter cited as Oxford Reasons. For Sanderson's part in producing the Oxford Reasons, see George Lewis, Robert Sanderson, (London, 1924), pp. 100-101.

> Whether, upon supposition that the words of the Engagement will bear more constructions than one, the Subscriber may take it in his own sense? Or whether it be necessary, or expedient, before he subscribe, to ask those that require his subscription, in what sense they require him to subscribe it?[15]

First, Sanderson denies categorically that anyone can in good conscience make a promise in a sense of his own which differs significantly from the meaning clearly expressed and understood by the man to whom the promise or oath is given. The concept of equivocation, he says, undermines the purpose of such promises, "the preservation of faith among mankind." Since an oath, vow, or promise exists for the benefit of the one who requires it so that "he may have the better assurance from him that giveth the faith, that what is promised shall be accordingly performed," all promises "ought to be understood ad mentem imponentis, according to the mind and meaning of him to whom the faith is to be given; so far forth as that meaning may reasonably appear, by the nature of the matter about which it is conversant, and such signification of the words whereby it is expressed, as according to the ordinary use of speech amongst men agreeth best thereunto."[16]

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[15] Sanderson, Works, V, 24.

On the other hand, Sanderson maintains that sometimes words express intention so imprecisely that an oath may be understood in more than one sense without forcing language beyond "the ordinary use of speech amongst men." In that case it is usually imprudent and unnecessary to ask for clarification. Since a man imposes an oath for his own benefit, the responsibility for making his intention intelligible is also his. Sanderson recognizes still another possibility. A cunning man may purposely word an oath ambiguously because he has "some more remote and secret intention than he is willing to discover."[17] The casuist advises using this duplicity to one's own advantage by disregarding any ulterior meaning, since the requirer of the oath is free to word it as he wishes and can be assumed to intend no more than it says. The promiser is obligated not by a secret intention but by "the declared Intent only, (viz., that which the words, according to the common use of speech, do, in relation to the nature of the business, most naturally and properly represent to the understanding of reasonable men, when they hear them."[18]

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[16] Sanderson, Works, V, 24.

[17] Sanderson, Works, V, 26.

Parts IV and V apply these rules for dealing with ambiguities to the words of the oath itself. In Part IV Sanderson gives the text of the oath, analyzes its ambiguities, and suggests three alternative but reasonable readings of the words. In Part V he tries to determine which reading can most reasonably be called the declared intention.

The very leniency of the oath produced, according to Sanderson, "sundry ambiguities." Most basically, "Commonwealth" may mean either "those persons who are the prevalent party... and now are possessed of and do exercise the Supreme Power" or simply the whole English nation as distinguished from foreign states. Thus the promise of fidelity may be to the present governors and imply acknowledgment of their right to power or it may simply pertain to the safety of the nation and imply no more than willingness to live peaceably under the de facto rulers. The second ambiguity is closely related to this. The final clause "as it is now established without King and Lords" may signify approval of this form of government or it may be a mere recital of facts describing the present government. The last ambiguity Sanderson discusses is the phrase "true and faithful." Here there are three alternative readings. The faith promised may be understood to be that owed to the king; it may be simply that fidelity which every man owes to his country; or it may be such faith as prisoners of war give to their captors "to remain true prisoners of war, and, so long as they are under their power, not to attempt anything to their destruction."[19]

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[18] Sanderson, Works, V, 27.

On the basis of these three ambiguous phrases in the oath Sanderson proposes three different readings, none of which is an equivocation in the sense that it attempts to avoid the essential point of the promise. Most rigorously the oath might be understood as a promise of complete approval and undying allegiance to the present government:

> I acknowledge the Sovereign Power of this Nation, whereunto I owe Allegiance and Subjection, to be rightly vested in the House of Commons, or Representatives of the People now sitting and enacting at Westminster, wherein neither King nor Lords, as such, have, or henceforth ought to have any share. And I promise that I will perform all Allegiance and Subjection thereunto, and maintain the same with my fortunes and life to the uttermost of my power.

The least demanding interpretation the words are capable of is:

> Whereas for the present the Supreme Power of this Commonwealth is actually possessed and exercised by this House of Commons, without either King or Lords, I promise that whilst the Government continueth so established, I will notwithstanding

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[19] Sanderson, Works, V, 30.

> endeavor myself faithfully in my place and calling, to do what every good member of a Commonwealth ought to do for the safety of my Country, and preservation of Civil society therein.

Between these two readings lies a third:

> Whereas the Government of this Commonwealth of England, so far as it standeth presently established, is administered and exercised without either King or Lords, I do faithfully promise, so long as I live under the present Power and enjoy the benefit of their protection, that I will not do any act of hostility against them, nor contrive or attempt anything to their destruction; but living quietly and peaceably under them, will endeavour in my place and calling to do what to my best understanding shall appear requisite to be done for the safety of my Country, and the maintenance of Civil Society within the same.[20]

The final question to be answered in section V is which of these readings can be most reasonably regarded as the "declared intention" of the government. Sanderson acknowledges that a reasonable argument can be presented in support of the strongest interpretation. Assuming that any political power desires to secure and perpetuate itself and that this end can best be achieved by obtaining the widest possible acknowledgment of its right to power, one can argue that the Engagement has been designed to achieve this end and must, therefore, be interpreted in the most obligatory sense. But, Sanderson says, though the strongest interpretation is undoubtedly closer to the present rulers' secret and ultimate intention, it is strongly probable that their declared intention is less binding. Sanderson lists six arguments in favor of a more lenient interpretation. First, many conscientious royalists have taken it, and, second, some of the men imposing the oath are reported to have said that the less rigorous interpretation was the correct one. Third, the imposers of the oath could have worded it more strongly if they had wanted to. Fourth, they seem to have purposely rejected the stronger phrase "against King and Lords."[21] Fifth, since they are forcing the oath on men who they know think them to be usurpers, they must in reason be requiring only a promise to live quietly. Sixth, it is a "received Maxim of Political Prudence," for disputed governments to attempt to conciliate their disaffected subjects rather than to increase their hostility. Such governments usually are well satisfied with the assurance that men will live quietly under their rule. Thus, Sanderson argues, the men imposing the Engagement, who have shown themselves to be very effective politicians, probably would not "be so impolitic as not to proceed by the same rule, that all wise and successful persons have ever practiced in the managing and for the establishing of an Acquired Power."[22]

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[20] Sanderson, Works, V, 30-31.

His analysis completed, in section VI Sanderson turns his attention from the moral issues themselves to the individual conscience on which they impinge. He gives no positive answer to the question but concludes instead with five particular and more limited opinions. No single answer is possible because the entire action is qualified by the state of conscience of the actor. The decision of whether subscribing is lawful or unlawful remains perforce with Mr. Washbourne, but the casuist can show him how to proceed. First, taking the Engagement while intending to break it is clearly unlawful. Second, anyone who thinks that the Engagement requires an unlawful action may not take it in good conscience. Third, anyone who thinks that the words of the Engagement imply a repudiation of his prior allegiance cannot in good conscience take it. Fourth, anyone who is not sure that it is lawful may not take the Engagement for reasons of prudence. But fifth, a man who is firmly convinced that the words of the Engagement intend nothing contrary to his allegiance and do not prohibit him from exercising his loyalty to the king should the opportunity arise may take the Engagement rather than incur physical or economic hardship. "Since his own heart condemneth him not," Sanderson concludes, "neither will I."[23]

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[21] Sanderson, Works, V, 33.

[22] Sanderson, Works, V, 33-34.

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[23] Sanderson, Works, V, 35.

III

Conceptual Characteristics of the Case

This brief summary cannot suggest the intricacy of Sanderson's case of conscience, but it demonstrates three basic features which set the material of casuistry apart from that of other didactic genres: its focus on problematical action, its particularity, and the centrality of its concern for the individual conscience. Perhaps the most important characteristic of the subject matter of casuistry is the prominence of the individual conscience. Thomas Washbourne's fear with respect to the oath was the possibility of making "shipwreck of a good conscience," and "sinning against his conscience" is a key phrase throughout Sanderson's resolution of the problem. Conscience, indeed, is the key concept in casuistry and deserves some explanation.

For the seventeenth-century casuist, the conscience is the mind of man operating morally. It prods the reluctant, accuses and torments the guilty, and comforts the innocent. Its activities are varied, but to the Renaissance mind the conscience was less the still small voice which disturbs the sleep of the sinful than the intellectual activity of judging past action and legislating future action. In De Obligatione Conscientiae, the series of lectures on the conscience which he delivered at Oxford in 1647, Sanderson defines the conscience in a traditional and orthodox manner, emphasizing its rational and practical rather than its emotional aspects.[24] The conscience is, he says, "a faculty, or a habit of the practical understanding, by which the mind of Man doth by the discourse of reason apply that light with which he is indued to his particular moral Actions."[25] He insists that it is a function not of the speculative intellect nor of the will but of the practical intellect which "doth agree with the speculative in this, that it doth look on Truth, and with the Will in this, that it inclineth to operation."[26] The light with which man is indued is his understanding of the will of God. The conscience is, then, the way in which the rational man relates his knowledge of the divine will to particular actions. It is both a repository of truth and an instrument for implementing it. It acts as legislator by directing behavior and as judge by evaluating it. The conscience has a dual obligation. It must passively conform to the divine will, and it must actively direct all human actions. It fulfills its passive obligation by examining a proposed action and transmitting its judgment to the will, which chooses. The criterion by which it judges is the will of God. Man fulfills the active obligations of his conscience by acting in accordance with its dictates. Every man is given a conscience "to be as a God unto him, which in God's stead, as the Preacher of his eternal Law, should dictate to him what he ought to do." Since God's will is manifested to man through his conscience, a man sins whenever he acts against his conscience. The conscience operates through the fallible reason and thus may occasionally lead man into sin, but a man who acts against his conscience, even to commit an intrinsically innocent act, inevitably sins against God. "The state of conscience is...in the middle betwixt both, beneath God, but above Man, subject unto God as a Hand-maid, but set over man as a Mistresse."[27]

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[24] Robert Sanderson, De Obligatione Conscientiae (Works, IV). These lectures were revised for publication in English under the title Several Cases of Conscience Discussed in Ten Lectures in the Divinity School at Oxford, trans. Robert Codrington (1660). This new and rather misleading title seems to have been invented to promote the sale of these lectures and testifies to the popularity of cases of conscience at this time. My citations are to the English text, hereafter cited as Lectures.

[25] Sanderson, Lectures, p. 3.

[26] Sanderson, Lectures, p. 25. Sanderson's definition of the conscience as primarily a rational faculty derives ultimately from St. Thomas, as do the definitions offered by most English casuists, e.g., Perkins, Ames, and Taylor. Sanderson, however, disagrees at length with St. Thomas's classification of the conscience as an "act" and assigns it to the genus "habit." Lectures, pp. 17-30. See Thomas Wood, English Casuistical Divinity During the Seventeenth Century (London, 1952), pp. 67-68.

Thus, in his case of conscience on the Engagement

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[27] Sanderson, Lectures, pp. 36-37.

Sanderson does not attempt to treat the oath in isolation. He does not discuss the oath on its intrinsic merits as a piece of governmental policy. For him, the essential problem is the relationship between the oath and divine law, and he devotes most of "The Case of the Engagement" to the task of demonstrating that the act of subscribing to the Engagement oath is in harmony with the will of God. In addition, he assumes that the act of subscribing to the oath can be judged morally only by knowing the conscience of the man who subscribes. Since he assumes that a man who acts against his own moral judgment sins even if the act itself is innocent, Sanderson always qualifies his judgments in the case by considerations of the individual conscience. Taking any oath which transfers allegiance to anyone but the King is a sin, he says, for anyone "that either hath by taking the Oaths of Supremacy or Allegiance acknowledged, or that not having taken either Oath, yet otherwise knoweth or believeth that the Sovereign Power in England, to whom his natural allegiance is due, is the King, his Heirs, and lawful successors."[28] Since England is clearly a monarchy by law, taking the Solemn League and Covenant was, according to Sanderson, a sin against the conscience of any Englishman because, although the Covenant recognized the King's honor, it was obviously designed to help those in arms against the King. The lawfulness of taking the Engagement, on the other hand, depends on the subject's understanding of the oath. A man who is not fully persuaded that the oath is compatible with full allegiance to his lawful sovereign sins against his conscience in swearing to something that he believes might be evil.

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[28] Sanderson, Works, V, 22. Sanderson's objections to the Covenant are stated more fully in the Oxford Reasons. A comparison of the case on the engagement with this tract also illuminates the distinctiveness of the casuistical attention to the individual conscience. The Oxford Reasons describes in meticulous detail the illegality which the objectors discovered in the Covenent, but it does not attempt to discuss the moral state of those who took it.

Near the beginning of his case Sanderson expresses his fear that:

> if I should allow it in any case lawful, what ill use would certainly be made thereof by multitudes of people, apt to be so far scandalized thereby, as...to swallow it whole without chewing (that is, resting themselves upon the general determination of the lawfulness to take it hand over head, without due consideration either of the true meaning of it or of other requisite cautions and circumstances).[29]

Even if the act of subscribing is essentially lawful, it becomes evil for a man who is not fully convinced of its innocence. The moral nature of an action depends not simply on the relationship between the action and divine law, but also on the relationship between the action and the conscience of the individual agent. Thus Sanderson recommends signing the oath only to men who believe that the oath is compatible with the divine law which requires allegiance to the King. He concludes finally that the oath does not negate the prior allegiance to the King, but he stringently limits his opinion that subscription is lawful to those people who are fully and rationally convinced that he is right.

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[29] Sanderson, Works, V, 20.

Contemporary authors writing on similar problems in other genres were usually more greatly concerned with demonstrating the universality of their judgment. James I's defense of the oath of allegiance, for example, tries to prove that a civil oath really presents no case of conscience. He argues intelligently against the objections to the oath made in the breves of Pope Paul and in Cardinal Bellarmine's discussion, but his real interest is in arguing that it is improper for the Pope "to meddle between me and my subject, especially in matters that merely and only concerne civill obedience."[30] He maintains that no Roman Catholics are persecuted in England "for cause of conscience" and that he is concerned only with distinguishing between those of his subjects

> who although they were otherwise Popishly affected, yet retained in their hearts the print of their natural dutie to their Sovereigne; and those who being carried away with the like fanaticall zeale that the Powder Traitors were, could not continue naturall Allegiance.[31]

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[30] James I, Triplici Nodo Triplex Cuncus. Or an apologie for the oath of allegiance.... Printed in The Political Works of James I, ed. Charles H. McIlwain (Cambridge, Mass., 1918), p. 72.

[31] James I, p. 72.

But, while he realizes that the Pope's breve has ordered Catholics not to take the oath "on pain of condemnation of their soules," he does not acknowledge that his imposition of a civil oath inevitably persecutes the most law-abiding of English Catholics "for cause of conscience."

Sanderson's awareness of the problem of individual conscience does not lead him to denounce the practice of requiring oaths or to excuse those who refuse a lawful oath by pleading tender consciences. His casuistical concern for the pressures on the conscience does, however, enlarge his sympathies and affect his viewpoint. For example, earlier he approved of the lawfulness of the controversial "et cetera oath," for example, but he tactfully suggested that the government either refrain from enforcing it or publish some explanation helping to overcome the objections to it.[32] Sanderson's concern with the individual conscience permeates "The Case of the Engagement" and causes him to see the matter as a moral rather than as a purely practical problem and to arrive at a solution which makes uncompromising demands of men's moral integrity but which is nevertheless neither universal nor dogmatic in its judgments.

The second characteristic which marks Sanderson's handling of the Engagement oath controversy is his constant acknowledgement of the problematical nature of his material.

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[32] Sanderson, letter to Laud, dated September 13, 1640, Appendix No. 1, Works, VI.

The case of conscience, as exemplified by Sanderson's "The Case of the Engagement," resolves a moral problem that is difficult, one in which some conflict of values or ambiguity of circumstance creates a situation that is controversial or problematical. Unless there is some doubt, some question as to what the right thing to do is, there is no case of conscience.

As we have seen, the Engagement oath was a controversial issue in 1650.[33] It did not simply represent the argument between royalists and roundheads; it stimulated bitter controversy within all the major groups of political and religious opinion. Although Sanderson did not himself take the Engagement, the encouragement to subscription he offers in this case troubled some of his colleagues.[34] It should be noted, however, that while Sanderson's resolution of the problem was controversial, his theological position was traditional and orthodox. The province of casuistry is the application of traditional principles to a concrete situation which is in some way ambiguous or doubtful. Sanderson's case is addressed to Anglican royalists, and he and his Anglican colleagues agree that loyalty to one's country and to its rightful sovereign is a moral duty, not simply a matter of human convenience. Sanderson dismisses as a red herring the question of particular oaths sworn to the Stuarts.[35] A ruler may impose an oath for his own assurance, but the obligation of loyalty exists whether he does or not. The difficult problem which the casuist needs to resolve is a practical, not a theoretical one.

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[33] See above, p. 4.

[34] Letter from Henry Hammond, probably to Sheldon, in Sanderson, Works, VI, 380.

The casuistical concern with the problematical action illustrated in Sanderson's "The Case of the Engagement" is, of course, something more than the choice of a controversial topic. As a casuist, Sanderson treats the Engagement oath controversy as a puzzle which must be solved. He constantly reminds his reader of the possibility of doubt and disagreement rather than simply accumulating positive evidence. Throughout the case his emphasis is as much on the difficulty of the problem and the method by which he untangles its complexities as it is on his conclusion. As a result, the delight in reading the case derives as much from the complexity of the puzzle-solving process as from the applicability of its solution to our lives. In his introductory remarks to Washbourne, Sanderson acknowledges that the point of inquiry is "so great, both for difficulty and concernment." He apologizes for not treating in detail each of the arguments in favor of subscription which Washbourne suggests, but declares that "yet you shall have something tending towards your satisfaction therein, by touching upon those points...wherein the difficulty of the whole business seemeth chiefly to consist."[36] The focus, then, is on the process of answering questions, satisfying doubts, and resolving difficulties. As the case develops, Sanderson shows himself to be more concerned with demonstrating the reasons which led him to his conclusion than he is with communicating his solution clearly and forcefully. He says repeatedly that his conclusion is meaningless, even dangerous, if it is separated from his analysis of the problem. He insists too that each man who signs the oath understand his reasons for doing so.

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[35] Sanderson, Works, V, 21.

This focus on the possibility of doubt and the use of reason to resolve doubt helps to distinguish Sanderson's case of conscience from related genres. Sermons and devotional works also treat human experience in moral and specifically Christian terms and are designed to influence the individual human conscience. Unlike casuistry, however, they attempt to overcome the natural man's resistance to known truths rather than to resolve moral dilemmas. The meditation, for example, moves from a sense perception of the physical universe, through the play of the mind on some tenet of faith, to the directing of the will towards God. Sermons, too, are basically directed at the apostate will rather than the analytic intellect. Neither Donne's funeral sermons nor Browne's Hydriotaphia are designed to prove that man must die in order that he may live. Rather, they attempt to convince men emotionally of the imminence of death, the transience of the mundane, and the reality of the world of the spirit. Sermons often dealt with practical problems, of course, and were used for controversial purposes, but they characteristically focus on a universally accepted principle of virtuous action rather than on a difficult application of a principle. For example, the collection of sermons appointed to be read during Elizabeth's reign are partly polemical in nature. According to the 1562 preface, they were published "to avoid the manifold enormities which heretofore by false doctrine have crept into the Church of God."[37] The assumption is always that once the truth is understood application of the moral is a straightforward matter. The sermons on obedience to rulers and magistrates illustrate this. They are clearly designed to oppose the critics of the state, but they do not consider a problem created by the duty of allegiance or identify and consider the arguments of the opposition. They are calls to duty utilizing lyrical catalogues of order in the universe, Biblical texts ("The powers that be, be ordained of God. Whosoever therefore withstandeth that power, withstandeth the ordinance of God"), and vivid warnings of the punishments awaiting rebels (disappearing into the bowels of the earth, foul leprosy, and fatal stings by "wonderful strange fiery serpents").[38] The moral issues in Sanderson's case are more complex and more puzzling. The question is not simply to remain loyal or to desert, to sin or not to sin; it is how to find out where sin lies.

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[36] Sanderson, Works, V, 20-21.

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[37] Certaine Sermons or Homilies Appoynted to be read in Churches, in the time of the late Queen Elizabeth... (London, 1633), p. 71.

Sanderson's treatment of the Engagement oath as a question about a doubtful action derives from his conception of the conscience, just as does his concern with the harmony between action and divine law and between action and individual conscience. According to contemporary casuistical theory, the conscience could be classified as right or wrong, according to its relationship to divine law, and it could also be classified as sure or unsure according to its function in practical application. The conscience, therefore, could be right and sure, sure but wrong, right but unsure, or simply unsure. A conscience which was both sure and right was called a "right" conscience, while a conscience which was sure but wrong was called an "erring" conscience. A right but unsure conscience was labeled "scrupulous," and a conscience which was unable to decide whether a proposed action was lawful was known as a "doubtful" or "doubting" conscience.[39] The only virtuous conscience, of course, was the right conscience. The man who acted against his conscience, as I have explained, was guilty of sin regardless of the nature of his actions, but the man who followed his erring conscience into sin was also guilty. So was the man who acted in spite of an unresolved and doubting conscience. To obey a just law with a doubting conscience was sinful, according to Sanderson, "For whatsoever is not of Faith, is Sin."[40] Casuists discuss theoretically the relative sinfulness of erring consciences, and they offer advice on how to correct an erring or scrupulous conscience. Most casuistry, however, is devoted to the doubting conscience. A case of conscience arises when a man is doubtful about what he ought or ought not to do. Casuists are sought by men who are consciously torn between conflicting loyalties, not by men who are confidently deceived. The casuist's goal, then, is to turn a doubting conscience into a right conscience.

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[38] Certaine Sermons or Homilies, p. 75 (misnumbered 69).

[39] For example, in the fourth sermon Ad Clerum Sanderson defines the types of conscience and suggests "what courses might be the most probably taken for the correcting of an erroneous conscience, for the settling of a doubtful conscience, and the quieting of a scrupulous conscience." Sermons by Robert Sanderson, ed. R. Montgomery (London, 1841), I, 219.

Since the conscience was conceived of as a faculty of the intellect, the reason was held to be the means through which its doubts could be resolved. The function of the reason was to gather and evaluate evidence about the lawfulness of a given action. Casuists are usually classified according to their position on this process of accumulating and assessing evidence in cases of doubt. The most rigorous position was tutiorism, which demanded that the doubting conscience choose the safest alternative, that is, the alternative with the least possibility of sin, without regard to the degree of sin, the extent of personal suffering, or the evidence tending toward proof that the action in question was really innocent. The piety of this course was admired, but to demand that man always assume himself bound to obey when there is any possibility that a law might apply was clearly intolerable in practice. And so tutiorism was rejected by most Renaissance casuists. The alternatives to tutiorism were probabilism and probabiliorism. As the names imply, both of these schools of thought maintained that moral doubts could be resolved on the basis of probability. Probabilists held that in a doubtful case a man could act without regard for a moral law when he could discover any probability that it did not apply in his case. Probabilism had the advantage of freeing man for action in especially difficult cases even against the usual theological opinion, but it clearly was open to abuses.[41] Probabilism was associated with, though by no means confined to the Jesuits, and English casuists usually condemned it as an excrescence of Jesuistical laxity and cynicism. Probabiliorists assumed that certainty could be reached in doubtful cases by the exercise of reason. The function of the reason was to weigh all evidence pertinent to the lawfulness of a particular action, and the conscience could then judge in accordance with the side which the available evidence proved to be the more probable. Probabiliorism allowed the individual to act only when the strongest probability favored liberty.[42]

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[40] Romans xiv.23. Sanderson, Lectures, 215.

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[41] Edward L. Long, Jr., notes that probabilism "was a scheme by which, for instance, the moral theologian could regard as ethically justified a decision to vote on either side of an average American political contest." Conscience and Compromise: An Approach to Protestant Casuistry (Philadelphia, 1954), p. 26.

Although he sometimes sounds like a tutiorist in his lectures on the conscience, Sanderson approaches actual cases of conscience as a probabiliorist. In De Obligatione he suggests the "Rule of Law" that "in a doubtful case, the safer part is to be chosen."[43] Sanderson here seems to be advocating the tutiorist rule that the safer alternative must always be chosen, but, as Thomas Wood points out, the word "safer" is ambiguous. A casuist advising men to choose the safer alternative may mean either that the benefit of the doubt is always to be given to the law or that when there are some probabilities on one side and even greater probabilities on the other, then the safer course is to follow the greater probabilities.[44] Sanderson argues, it is true, that the law should be given the benefit of the doubt:

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[42] The casuistical treatment of doubt is discussed more extensively in Long, pp. 24-26; A. E. Malloch, "John Donne and the Casuists," Studies in English Literature, II (Winter, 1962), 57-76; H. R. McAdoo, The Structure of Caroline Moral Theology (London, 1949), pp. 88-97; Thomas Wood, English Casuistical Divinity During the Seventeenth Century (London, 1952), 74-78.

[43] Sanderson, Lectures, p. 217.

> If because of some probable Reasons appearing on both sides, the Subject cannot easily determine with himself whether the Law be right or not, insomuch that his mind is in a great incertainty, and knows not which way to incline, he is bound in this case actually to obey it, so that he sinneth if he obeyeth it not, and doth not sin if he obeyeth it.[45]

This argument, however, concerns a man with an uncertain mind, and although Sanderson warns against claiming freedom to act on insufficient authority or with unresolved doubts, his careful exposition in these lectures of how and when laws bind the conscience reveals that he believes it possible to resolve doubts by a highly probable argument and to act with a clear conscience.

Sanderson's treatment of Thomas Washbourne's doubts concerning the engagement oath certainly allies him with the probabiliorists. Sanderson did not himself take the oath and clearly sees no danger of sin in not taking it, but he does assume that a doubting conscience can be made right and sure by a strongly probable argument. His conclusion that engaging may be lawful depends on exhaustive interpretation of the oath. He admits that the question of interpretation cannot be answered with absolute certainty but insists that each man may lawfully act on his conception of the most probable reading of the oath after careful investigation. He avoids the laxity of probabilism by insisting that a man cannot act lawfully with a doubting conscience or without being fully convinced that available evidence supports the liberal interpretation of the oath.[46]

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[44] Wood, p. 75.

[45] Sanderson, Lectures, p. 216.

I have tried to demonstrate, then, that two of the most notable characteristics of Sanderson's "The Case of the Engagement" grow out of casuistical theory and distinguish the case significantly from other prose genres. Sanderson's case of conscience differs from most contemporary discussions of current problems in its focus on the inviolability of the individual conscience, and it differs from sermons and devotional literature in its stress on the problematical nature of moral action and the role of reason in resolving moral doubts. The concern in the case of conscience with the difficulties man encounters living in the world of men yet accountable finally to God allies it with such works of practical morality as courtesy books, books of estates, essays, and Theophrastan characters, but the third major characteristic of the case of conscience, its particularity, separates it from these genres. Like Bacon, Earle, Fuller, and Hall, Sanderson focuses on human conduct rather than on theology or spiritual growth through prayer and meditation. However, if his case of conscience differs from sermons and devotional literature in its organization around the practical application of the word of God in a difficult problem, it differs from these other genres in its detailed attention to the particular circumstances of the problem. The conduct books teach men that they should be obedient and honest, but they rarely descend to particular instances. The books of estates are organized around particular callings and again give general directions for virtuous behavior in a given occupation, but they do not give detailed instructions for dealing with concrete cases. Whether organized around occupationtion or social position or around basic character traits, the character is distinguished by its subordination of action to portrayal of types of human nature. Thus, Joseph Hall writes of "the unconstant man":

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[46] Judging the accuracy of Sanderson's decision about the intention of Parliament is difficult since the evidence is contradictory. Earlier in the year, the Leveller, John Lilburne, subscribed to the Engagement when he was elected to the London Common Council with a declaration that by Commonwealth he understood "all the good and legal people of England to be meant," not "the present Parliament, Council of State, or Council of the Army." (The Engagement Vindicated and Explained) Parliament rejected Lilburne's declaration and invalidated his election. Gardiner, History of the Commonwealth, p. 198. On the other hand, John Dury interpreted the Engagement as an oath "to be true and faithfull to the Nation, notwithstanding the absence of the King and House of Lords from the government." (Declaration of John Durie) He too presented a written interpretation to the government and his was found satisfactory. J. Minton Batten, John Dury: Advocate of Christian Reunion (Chicago, 1944), pp. 122-123. At any rate, the question of whether Parliament wanted to purge dissenters or wanted to reassure themselves of a peaceful citizenry is largely irrelevant here since Sanderson's position is that a man must deal honestly with the available information but that when the authority acts ambiguously a citizen need not question its representative in order to discover its intention.

> At first like another *Ecebolius*, he loved simple truth; thence diverting his eyes, he fell in love with idolatrie; those heathenish shrines had never any more doting and besotted client; and now of late he is leapt from *Rome* to *Munster*, and is growne to giddie Anabaptisme.... He saies, sweares, renounces, because what he promised, he meant not long enough to make an impression.

And of the "honest man":

> His cheekes are never stained with the blushes of recantation; neither doth his tongue falter, to make good a lye, with the secret glosses of double or reserved senses.[47]

The concern with the morality of allegiance and the obligations of sworn vows which is reflected in these characters appears not for its own sake as it does in Sanderson's case, but with a series of similar illustrations of the conduct in business, in society, and personal relations of a man of unstable character who "treads upon a moving earth, and keeps no pace" or of an honest man who "looks not to what he might do, but what he should."[48] Such characters as "a hypocritical convert of the times," "a turn-coat," "a politique neuter," and "a true English Protestant," it is true, do concentrate on the kind of behavior defined by certain actions in one area of experience rather than on human nature itself or on the virtues and vices characteristic of various social types.[49] Characters of this type are closer in subject matter to cases of conscience, for they view action as producing character rather than as simply illustrating it, and they seem also to have been most popular during the period of the Civil War.[50] Yet these too focus not on the moral quality of the action but on the man. The action is recounted and judged, but not analyzed. Sanderson's case of conscience is ultimately concerned with the moral evaluation of men, but for him a man exists morally in his actions.

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[47] Joseph Hall, *Heaven upon earth, and Characters of vertues and vices*, ed. Rudolf Kirk (New Brunswick, N. J., 1948), pp. 180, 149.

[48] Hall, pp. 180, 149.

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[49] The titles are from *The Times anatomiz'd, in several characters* by T. F[ord], 1647, and *Characters and Elegies* by Francis Worthley, 1646, as listed by Philip Bliss in his bibliography of books of characters in John Earle, *Microcosmography*, ed. Philip Bliss (London, 1811).

[50] The shift from the portrayal of a recognizable type of man (Theophrastan character) to a pointed comment on a particular ideological position is amply documented in Benjamin Boyce, *The Theophrastan Character in England to 1642* (Cambridge, Mass., 1947) and *The Polemic Character 1640-1661* (Lincoln, Nebr., 1955). In the latter book Boyce says that "the descriptive Character after a ten-year quiescence took new life, about 1642, as the national crisis was reached. But most Character-writers had other ends in mind than artistic depiction of manners. The polemic Character quickly came into being. Its nature is to state, directly or indirectly, the beliefs of some religious or political or social groups in order to defend or demolish them; manners may or may not be incorporated in the sketch." (p.12)

In addition, casuists all insist that the circumstances of human affairs are so varied that no type of action can be defined categorically as virtuous or sinful. According to Sanderson, there are three aspects of any human action: the intrinsic nature of the action in general, the intention of the agent, and the circumstances surrounding the particular action. He says, moreover, that "No action can be justly said to be morally good, unless the _Matter_ [_is_] lawful, the _intention_ right, and the _Circumstances_ due."[51] Thus, each specific action must be judged on its own merits, and an action defective in any of these threeways is evil. Swearing to an oath proposed by an unlawful government does not, then, necessarily make a man "a turn coat," "an hypocritical convert of the times," or a "politique neuter." The moral quality of acts of accommodation can be known only through a careful examination of the nature of each particular action. "The Case of the Engagement" requires a detailed investigation of the nature of oaths, the wording of the particular oath in question, and the surrounding political and ecclesiastical situation. Sanderson decides that the Engagement may be lawfully taken while the Covenant could not be. His decision rests on the ambiguity of the wording of the oath and his knowledge of the pressures under which governments operate and even reports of a particular Parliamentary debate. The case of conscience, like the courtesy book, the character, the moral allegory and the parable, focuses on action in the world of men, but it differs from all of these in its emphasis on circumstantial detail. The discursive thoroughness of cases of conscience links them with philosophical essays, but again their particularity distinguishes them. As Professor Houghton observes in showing Thomas Fuller's debt to casuistry, the casuist gives "specific directions for particular circumstances" while the essayist lays down "broad principles of action on a philosophical basis."[52]

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[51] Sanderson, _Lectures_, p. 48.

Thus, even a general comparison of Sanderson's "The Case of the Engagement" with the treatment of similar material in other genres shows that certain assumptions which Sanderson makes as a casuist produce a distinctive conceptual pattern. Moral good is, for the casuist, essentially virtuous action. Man acts virtuously by pursuing knowledge of the divine will and by applying this knowledge in his life. The conscience is the means by which the human mind apprehends moral good and applies it in action. Thus, casuistry is the science of the conscience, of man in action in a moral universe. The casuist conceives of moral experience as the complex functioning of a particular conscience rather than as exemplifications of various vices and virtues. Sanderson's cases of conscience do not, primarily at least, illustrate the dangers of pride, gluttony, and envy and the glories of humility, temperance, and love. They present man's moral life as the essentially intellectual experience of relating general principles to particular cases. The casuist cannot separate external action from the thought of the man who acts. Sin and virtue are products of the individual will, and since man lives in an imperfect world in which good and evil are confusingly mixed, choosing good is inevitably difficult at times. Problems arise which general principles of virtuous conduct are inadequate to deal with. Even men of good will and sound doctrine are faced with decisions which leave them doubtful and perplexed. Men must use their wits to discover the course of virtue among the tangled affairs of the world, and the casuist uses his to blaze a trail. All the intricacies of the moral law need to be examined in order to ascertain the lawfulness of an action which seems to involve a conflict of absolute principles. Human action involves not only an external deed of a certain moral quality and the intention behind the deed but also the circumstances attendant on and consequent to the deed. The casuist must be sensitive to the varying and transient conditions of his world as well as to the eternal verities. Sanderson's final recommendation in "The Case of the Engagement" is, therefore, amply qualified with "requisite cautions." He finds a man who signs the

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[52] Walter E. Houghton, Jr., The Formation of Thomas Fuller's "Holy and Profane States" (Cambridge, Mass., 1938), p. 96.

Engagement rather than suffer extreme hardship innocent if his action is the product of a serious and unprejudiced effort to discover the duties and obligations of his allegiance to the King, if he has conscientiously tried to find the intended meaning of the Engagement, if he is completely convinced, without doubts, that the words of the Engagement, not only may be interpreted but ought to be interpreted in a sense that is compatible with his duties of allegiance in the present circumstances of forced submission, and if he is convinced that the Engagement does not require him to promise anything that will prevent his rendering allegiance to the true sovereign should he have the opportunity.

IV

Other Contemporary Treatments of the Engagement Controversy

In the preceding section I have tried to isolate the most salient characteristics of the case of conscience as a genre by analyzing a representative case and showing how its fundamental conception grows out of casuistical theory and separates it from other kinds of seventeenth-century prose. The casuistical method as practiced by Robert Sanderson can be further clarified by viewing this case on the Engagement oath in the context of other contemporary discussions of the topic.

The Engagement oath controversy is still a cause celebre of this period of English history not only because it dramatized so vividly the tensions within the large groups of Royalists and Commonwealth men, but also because the discussion it evoked has helped intellectual historians to understand the development of political thought during this crucial period which produced the first great political theorists in England since Richard Hooker. At the beginning of the Civil War almost all Englishmen accepted without question the essentially medieval theory expounded by Hooker of an organic state ultimately derived from and sanctioned by God. By the time of the Restoration several well-articulated theories of political sovereignty based on human power and human rights rather than prerogatives bestowed by supernatural law on God's annointed had emerged. Thomas Hobbes is, of course, the most famous theorist to consider the nature of political authority during this period, but his was by no means the only modification of the traditional social theory to be formulated between 1640 and 1660. The conflict over the Engagement oath elicited articulations of some of the most significant of these contributions to political thought.

The confusions of civil war and the failure of the Commonwealth to produce a successful religious settlement certainly undermined the organic theory of the state and made it impossible to practice for a thoughtful man to live confidently on the assumption that he could adequately fill his place in the universe and fulfill his duty toward God and man by obeying cheerfully his superiors in the ecclesiastical and political fabric of his country. He had first to decide whether his lawful superior was Charles I in France or Parliament sitting in Westminster. With the execution of the King, the visible embodiment of the traditional organic theory disappeared. The collapse of the Tudor political and religious institutions may not have quite cut the ties which bound together man's political, social, and moral duties, but it certainly frayed them.

The royalist response to the problems raised by the civil war, however, was essentially to restate the Tudor doctrine of royal supremacy and non-resistance.[53] The authority to govern, the royalists argued, derives from God, and, as English law and history testify, in England God has bestowed this power on the King. No subject or group of subjects has the authority to disobey or rebel against the Lord's annointed. Charles I and his heirs are the "higher powers" to whom St. Paul commands obedience. English kings are not, the royalists conceded, absolute monarchs. They are bound to rule by the laws of the land. English law places the legislative power in the House of Lords, the House of Commons, and the King. Laws promulgated by Parliament without the consent of the King are invalid. When England finds itself in the extraordinary situation of the Houses of Parliament in rebellion against the King, sovereign authority must reside with the King who is the head of state and accountable finally only to God.

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[53] Convenient summaries of royalist political thought during this period can be found in J. W. Allen, English Political Thought 1630-1660 (London, 1938), I, 3-25, 48-115, 482-519; Margaret Judson, The Crisis of the Constitution (New York, 1964), pp. 17-217; and Perez Zagorin, A History of Political Thought in the English Revolution (London, 1954), pp. 189-202.

After Parliament's opposition to the King led to civil war, the royalists did not need to propose a new theory of the state, because they were defending the traditional view. They relied primarily on criticizing the claims of the Parliamentary group and pointing out their revolutionary nature. The Parliamentarians, however, were on the offensive and were forced to formulate a political theory which could supply a moral justification for taking up arms against the King.[54] Before the outbreak of the war, they justified their resistance to the King in terms of law, precedent, and constitution. They strengthened their case against royal abolutism by appeals to natural law and divine law which transcended English common law, but when common law proved inadequate to deal with a particular problem, parliamentarians resorted most often to the concept of Parliament's responsibility to act for the good of the people. "The Welfare and Safety of the People and State, is the supreme Law," declared Parliament in censuring one of the King's ministers.[55] During the crucial years of 1640 and 1641 Parliament's unprecedented encroachments of royal authority were increasingly justified on the basis of the necessity of the public welfare, and, as the war progressed, political theorists like Henry Parker developed fully a theory of government in order to vindicate Parliament's claims to govern in the name of the people.

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[54] See Allen, pp. 26-47, 424-481; Judson, pp. 274-436; Zagorin, pp. 78-86.

The basis of Parliament's theory of government was the proposition that political power resides ultimately in the people. All political authority, according to Henry Parker, derives from the common will. In order to gain the benefits of order and security, the people, by common consent and agreement, invest the power to rule in some form of government, but they retain their fundamental rights: "Princes were created by the people, for the people's sake, and so limited by express laws as that they might not violate the people's liberty."[56] England, according to this theory, was a mixed monarchy. The king had legitimate powers to rule, but he was bound by natural law and the laws of the land. The contractual idea of authority can also be found in Hooker, but he offers no clear solution to the abuse of supreme authority. According to Parker, however, the king could be called to account for breaking natural or civil law. When a case of absolute disagreement between the king and the houses of Parliament arose, sovereignty fell to Parliament as the representative of the people. The people had entrusted power in the king for their protection, but they had retained the right to depose him.

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[55] Journals of the House of Lords, III, 597. Quoted in Judson, p. 292.

[56] Henry Parker, Jus Populi (1644), p. 1. Quoted in Allen, p. 429.

This theory of government based on popular sovereignty, the supremacy of law over the particular ruler, and the right of revolution became, according to Professor Zagorin, the official theory of the Commonwealth.[57] The men closest to Cromwell who wrote in defense of the new government used the arguments developed in the early years of the war. But these ideas which had emerged during the struggle between King and Parliament were less persuasive after 1649 when they were used to justify regicide to a shocked world than they had been as justification of armed resistance to royal power. This theory, moreover, was intrinsically weak in that its advocates were unwilling to extend its principles to the Commonwealth itself. The people had the right to execute a wicked king, but not to oppose Cromwell's army. Thus, the necessity for rethinking the relationship between man's moral and his political life was most pressing for those who defended the full authority of the government of England as it existed without a king and denied the justification of any future rebellion. A body of thought justifying obedience to the

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[57] Zagorin, p. 63.

Commonwealth on the basis of the authority of the de facto power developed to fill this need.[58] This view of the nature of the state, which Professor Zagorin calls the unofficial theory of the Commonwealth, attempted to avoid the fundamental inconsistency in the official position by separating the question of obedience from the question of lawful authority. The principal creators of this theory were Anthony Ascham, Francis Rous, and John Dury. According to Anthony Ascham, man owes obedience to whatever government actually possesses power. All loyalty to previous rulers is invalidated by the overwhelming demands of present reality: "we of the People must be contented with those governours, into whose full possession it is our destiny to fall."[59]

Thus Ascham justified obedience to the Commonwealth not by arguing that it had the right to power, but by arguing that, since it had power, men had the duty to obey it. Ascham's position is not, however, a simple-minded assertion that might makes right. As Professor John Wallace had demonstrated, Ascham was attempting to find a peaceful and sane solution to a difficult problem in a nation exhausted by war.

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[58] On this line of argument see Quentin Skinner, "History and Ideology in the English Revolution," The Historical Journal, VIII (1965), 151-178; John Wallace, "Marvell's Horatian Ode," PMLA, LXXVII (1962), 33-45; Wallace, "The Engagement Controversy 1649-1652; An Annotated List of Pamphlets," Bulletin of the New York Public Library, LXVIII (1964), 384-405; and Zagorin, pp. 63-77.

[59] Anthony Ascham, Of the Confusions and Revolutions of Governments (1649), p. 115.

He advocated obedience even to an unlawful power not in order to foster cynicism but in order to avoid further bloodshed. The rationale for this position involved a theory of history. Neither the Royalists who argued on the basis of English law that the King was the supreme authority, nor the Puritans who argued that the people were the ultimate authority were much interested in the historical origins of the governments they defended. Ascham's strategy was to point out that the monarchy owed its power to the force of arms just as much as the Commonwealth did. No modern government, he observed, could demonstrate a clear right to power unblemished by a history of usurpation or conquest. In normal times of settled government all men acknowledged that subjects should obey the lawful commands of their superiors. The present confusions of government, he argued, could not essentially alter the case. The lawfulness of a government depends not on its origin, but on its possession of power. Governments exist on a "mutual relation of Protection and Allegiance."[60] Thus, a subject's allegiance to a particular ruler dissolves when that ruler loses plenary power, ceases, in fact, to be a ruler. The moral justification for the authority of the victorious forces was providence. Changes in government are not the capricious deeds of blind fortune but acts of God.

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[60] This conclusion, cited from N. W., A discourse concerning the Engagement (London, 1650), p. 11, was commonplace, according to Professor Skinner, p. 164.

"We are bound," says Ascham, "to owne Princes so long as it pleases God to give them the power to command us, and when we see others possesst of their powers, we may then say, That the King of Kings hath chang'd our Vice-Roys."[61] God had awarded victory to Cromwell's army and by so doing had given them the power, and thus the right, to rule.

The imposition of the Engagement oath in 1650 intensified the controversy which the King's execution had precipitated and forced all male citizens to come to terms in one way or another with the problems it raised. Since the oath sought the concurrence of all Englishmen in obedience to the revolutionary government, it became a natural focal point for this body of thought which located the right to power in the fact of power, rather than in popular consent. Ascham, Rous, and Dury were the principal defenders of the oath, and most of the other engagers who rushed their justifications of subscription into print took up similar lines of argument.[62] Although they appear in many forms and take many approaches to the subject, these pamphlets, several of which are in the form of cases of conscience, essentially attempt to remove men's doubts about the lawfulness of engaging by proving that men owe obedience to the Commonwealth as the plenary power in England by act of providence and that former oaths and allegiances to the King or the Covenant are dissolved. A conquered king, Anthony Ascham had argued, ought to release his subjects to obey his successor. If he does not, his permission "is to be presumed."[63]

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[61] Anthony Ascham, pp. 98-99.

[62] In his bibliography, John Wallace lists 72 pamphlets on the Engagement controversy. Most of the 49 entries which support the oath employ the arguments which Ascham developed. Those which justify the Commonwealth in terms of the "old" theory of the rights of the people usually also show some signs of being influenced by Ascham's ideas. Wallace, "The Engagement Controversy," pp. 390-405.

Sanderson's relationship to this line of argument is, I think, obvious. He clearly does not believe that the military success of the Puritans proves God's endorsement of their authority, nor does he even consider the possibility that man could be morally bound to subscribe to the Engagement because it was commanded by the de facto power. He denies, moreover, that a change in external circumstances can make an oath less binding. In De Obligatione Sanderson had discussed the kind of obedience due to ururpers or doubtful powers, and he had treated the problem of oaths extensively in De Juramenti Promissorii. In addition, he had written a brief refutation of Ascham in which he specifically condemned Ascham's treatment of the obligation of oaths.[64] In "The Case of the Engagement," however, he simply assumes that one may obey the lawful command of an unlawful power. His case attempts to determine whether the action commanded is lawful. The action in question is subscription to an oath of allegiance, but Sanderson does not even bother to refute the argument proposed by Ascham and Dury that previous oaths to the King are dissolved because he no longer actually exercises power.

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[63] Anthony Ascham, p. 102.

[64] Sanderson, Works, VI, 372-374

The exchange of letters between Sanderson and Thomas Washbourne reveals quite clearly Sanderson's place in the debate over the Engagement oath. In his letter of inquiry Washbourne proposes "the most common Arguments" in favor of taking the Engagement and asks Sanderson's opinion of them. Since Sanderson rejects Washbourne's formulation of the problem in favor of his own, a comparison of the two can illuminate Sanderson's method of resolving the problem. Washbourne listed eight propositions and added a ninth question in a postscript:

> 1. That it is only a Promise, not an Oath, and consequently not so obliging the Conscience, but only pro tempore, whilst the State stands in force; and that when the lawful Heir to the Crown shall come in place, it is void, &c.
> 2. That it is but a Civil Engagement, requiring no more than a passive obedience to the present Power, which I cannot resist, and therefore must submit to it.
> 3. That it is but just to promise fidelity, though to an unjust Power, under whom I live and from whom I have protection.
> 4. That it is the constant and avowed practice in frontier towns for the inhabitants to take an Oath to be true to that party which possesseth the place; and as soon as the party is ejected, they are freed from the Oath, and swear to be faithful to the contrary party.

> 5. That the Oaths of Supremacy and Allegiance...bind not to impossibilities; and since the government is altered against my will, as I am not able, so I am not obliged to defend the King's person and authority, &c.
> 6. That the present Power, though usurped, is the only Power extant; and we must be subject to that or none. And how can it be sin to promise what I cannot choose but perform, viz. to be true and faithful to the Parliament, &c? for had I the will to betray or oppose them, I want the ability.
> 7. That by not subscribing I become a prey to them, and thereby am made utterly unable, in a civil capacity, to serve the rightful Prince, if he should come in place to demand my assistance.
> 8. That the King, both before and since his coming into Scotland hath (if strong report of same may be credited, who stick not to say they have it from his own mouth) given leave to his subjects rather to subscribe than suffer the loss of their estates.
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> ....
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> Let me trouble you with this one Query more. Whether, upon supposition that the words of the Engagement may bear a double construction, I may take it in my own sense or in the Imposer's? and whether I ought to ask his interpretation before I subscribe? I add this at the request of a friend who desires to be satisfied in this point.[65]

In compiling this list of arguments Thomas Washbourne, an avowed royalist, drew heavily on the ideas publicized by Rous, Dury and Ascham. Although he does not mention the idea that events justify themselves as evidence of the divine will, the sixth argument on his list states clearly the doctrine that obedience to the de facto power is necessary, and the fourth argument supports it by drawing an analogy between English citizens and a conquered people. The third argument states the engagers' thesis that government is based on the reciprocal relationship of protection and allegiance and that the necessity of obeying the de facto power creates a lawful obligation. The fifth argument Washbourne proposed is the familiar attempt to prove that the obligations of earlier oaths are dissolved by the change in the exercise of power. Although the first argument is essentially an attempt to minimize the importance of the Engagement oath phrased in terms of a distinction between oaths and promises, it also is based on the idea that political allegiance is due a government only so long as it retains power. The eighth argument is reminiscent of Ascham's thesis that a conquered king should release his subjects to obey the usurper.

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[65] Sanderson, Works, V, 18-19.

Washbourne did not, however, develop a consistent argument justifying subscription to the Engagement in the manner of Ascham, Rous, and Dury. His first argument assumes that he continues to owe allegiance to the lawful heir to the throne, while the fifth suggests that the allegiance has been obliterated. The seventh justifies engaging on the grounds that not to engage would make allegiance to the king impossible. The second argument on his list focuses on the nature of the particular promise required rather than on the nature of political allegiance. The seventh and, to some extent, the eighth are directed at the consequences of the proposed action rather than the action itself. The final query, added apparently with some embarrassment, owes more to Jesuistical casuistry than to Ascham. Still, Washbourne clearly was familiar with the new ideas being popularized by the Engagement controversy and looked to them for escape from his dilemma.

Since Washbourne simply proposed the current arguments for Sanderson's scrutiny and Sanderson wrote a coherent and logically consistent case of conscience, their treatments of the problem cannot sensibly be compared in terms of form, logical force, or rhetorical technique. But the striking contrast they present does illuminate a distinctive feature of Sanderson's voice. When everyone else was talking about "the present Power" and the necessity of obedience, Sanderson was submitting a piece of English prose to rigorous textual analysis.[66] Sanderson's case touches on almost all of the points which Washbourne raised, but it does so within a very different frame of reference. Sanderson gives due weight to the circumstances of living under a usurping and hostile government, but he rejects Washbourne's arguments from necessity, which could justify the Solemn League and Covenant as well as the Engagement. He admits of no exceptions to the duty of obedience to the lawful sovereign relevant to the case. For the royalist sympathizer, taking an oath of loyalty to the de facto government is lawful only if it is consonant with full allegiance to the King. The resolution of the problem depends, therefore, on the rules which govern man's actions with respect to oaths. Sanderson makes no distinction between oaths and promises. All promises are acts done in the sight of God whether or not they expressly call Him in as witness. Sanderson also subordinates considerations of the consequences of engaging since they are relevant only if the action can be shown to be intrinsically innocent. A good end cannot justify unlawful means.

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[66] Only three of the pamphlets summarized by Wallace show any similarity to Sanderson's approach. No. 21, Conscience puzzel'd, about subscribing the new Engagement (N.p. 1650), works from philosophical assumptions different from Sanderson's but does analyze the wording of the oath. No. 54, A briefe resolution of that grand case of conscience (London, 1650), denies that subjects may take a new oath of allegiance but holds that they may submit "to such things of an inferior nature...provided that they acknowledge not the lawfulness of the present usurped Power." No. 72 describes an unpublished pamphlet by Sir Robert Filmer in which he argues "that the oath may be taken insofar as the "Commonwealth" remains unchanged (though lacking a part) and because justice should be maintained. Submission is due until the former constitution is revised. The promissory (as opposed to declaratory) part of the oath binds us to nothing evil." Wallace, "The Engagement Controversy," p. 405.

Many men shared these basic principles with Sanderson, since they are from the stock of traditional Christian ethics. Most of the refutations of the engagers are based on these tenets of the inviolability of oaths and the unalterable moral duty of allegiance to the lawful power.[67] But Sanderson, although he stands firmly on the traditional conception of the nature of the state and man's moral obligation to obedience, goes on to ask whether one can swear to less than the whole truth in some situations without being guilty of perjury.

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[67] Wallace, "The Engagement Controversy," 390-405 passim.

The policies of equivocation and mental reservation attributed to the Jesuits were constant objects of Protestant attack, and Sanderson elsewhere had condemned them as contrary to the end of speech and to the end of oaths. He scorns men who "play fast and loose with Oaths" and can swear to one thing on Monday and its opposite on Tuesday. To take an oath with such general reservations as "so far as lawfully I may" or "So far as it is agreeable to the Word of God" does not eliminate guilt; rather it creates "a new guilt of most vile and abominable Hypocrisy."[68] In "The Case of the Engagement" Sanderson again scorns these subterfuges indignantly, but he, like all casuists, recognizes that to tell all of the truth at all times is impossible and to say nothing is sometimes dangerous or even sinful. His final position on oaths lies between recommending intentional deception and naively admonishing his readers to tell the truth. Man may not secretly understand in a private and unusual sense the assertion that he swears to, but if the words of a vow are intentionally ambiguous according to the common use of language in the given context, then he may use that ambiguity to his own advantage.

Thus, approaching the problem of the Engagement oath as a casuist did not necessarily lead Sanderson to any particular solution. There were cases of conscience defending the Engagement oath in terms of Ascham's theories and there were cases of conscience opposing the oath entirely. Casuistry was not a particular doctrinal position, but it was a particular way of looking at certain areas of human experience, a way which involved the recognition of the problematical nature of human action and the attempt to discover a rational solution to moral problems by finding a possible and meaningful way of relating universal moral law to a single human being inextricably involved in the complexities of actual life. In Sanderson's hands the casuistical method was a remarkably subtle tool. Sanderson was not a great original thinker. He did not contribute to the democratic thought beginning to emerge during this period or provide men with a new perspective from which to see the nature of society. Neither does he offer to the modern reader a tenable political philosophy. He does, however, furnish a model of a precise and subtle mind using the wisdom of the past to make life in the present possible. The assumptions about the individual's relation to authority which Sanderson inherited are by no means shallow, the problems he dealt with are not trivial, and the ingenious bridge he constructed between them is worthy of respect.

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[68] Sanderson, Oxford Reasons, Works, IV, 420-422.

V

The Literary Form of "The Case of the Engagement"

Since Sanderson's case, when placed in the context of contemporary debate on the Engagement, appears to be notable more for its subtlety in applying traditional moral principles to experience than for originality of philosophical inquiry and since it differs from other prose genres in its approach to man's moral experience, I will next describe the formal structure of this case. Because the casuist makes certain assumptions about the nature of morality, he conceives of his material in a distinctive way. As a result, he needs to present his material in an appropriate form.

An obvious feature of Robert Sanderson's case on the Engagement is its epistolary form. Since there is no call for a casuist until an individual has a problem, there is characteristically a personal quality to cases of conscience. Thomas Washbourne writes of his own troubles and appeals to Sanderson, whom he did not know, on a human and personal basis: "Had my wife's father, Dr. Fell, late Dean of Christ Church, and your friend, been now alive, I should have made him my pilot in this storm. But since God hath taken him away, I desire you would supply the place of a father in your counsel."[69] Sanderson responds appropriately in a personal tone. The letter begins with informal remarks on the weather:

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[69] Sanderson, Works, V, 17.

> I have hitherto been very sparing in delivering my opinion concerning the point now most in agitation...
> Yet since by your Letter, and by sending your servant therewith on purpose so many days' journey, through unknown ways, and at this season of the year (especially as the weather hath proved since his coming forth) scarce passable....[70]

and ends gracefully with messages of friendship to his correspondent's family:

> Sir, I desire that my best respects may be heartily presented to the good Gentlewoman, Mrs. Fell, to whom and all hers I wish much comfort and happiness. The like to you and yours, desiring your prayers.[71]

Also, Sanderson sometimes refers directly to Washbourne in the course of his analysis, particularly when he is endorsing one of Washbourne's suggestions. Phrases like "as you write, it is strongly reported and believed, the King hath given way to the taking of the Engagement," and "which is in effect the Quare contained in your Postscript," sustain the quality of personal friendliness, for Sanderson never explicitly takes Washbourne to task.[72]

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[70] Sanderson, Works, V, 20.

[71] Sanderson, Works, V, 37.

[72] Sanderson, Works, V, 23, 24.

Yet this personal quality should not be exaggerated. Casuistry is not simply fatherly advice. In the seventeenth-century taste for casuistry, personal concern for a troubled man combines with appreciation for a challenging intellectual and literary form. This curious blend of personal compassion, general curiosity, and professional interest is illustrated by Walton's report that Donne kept his own copies "of divers Letters and cases of Conscience that had concerned his friends, with his observations and solutions of them."[73] So too Sanderson clearly thought that his letter applied to more people than Thomas Washbourne. He asks Washbourne to have his letter copied and to return either the copy or the original. He gives explicit permission for his letter and opinion to be used "for your own, or any friend's satisfaction," requesting only that no copies should be distributed because of the danger that one might be printed and through wide circulation incur Parliamentary wrath or greater severity in the framing of oaths.[74] The body of his reply to Washbourne is a rigorous analysis of the problem of the oath without particular regard to the inquirer. Sanderson's case is in the framework of personal correspondence, but it is not a resolution of one man's problem so much as a pattern by which a man can solve his problem. Compared with elliptical and topical personal letters or generalized allegories or characters, Sanderson's cases are notable in their adherence to particulars which embody general truths.

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[73] Izaak Walton, The Lives of John Donne, Sir Henry Wotton, Richard Hooker, George Herbert, and Robert Sanderson (London, 1927), p. 68.

[74] Sanderson, Works, V, 35.

Written cases are a kind of persuasive prose, and hence the intellectual and academic predispositions of the seventeenth century naturally associated their composition with the discipline of rhetoric. Since the conscience functions both as legislator and as judge, the case of conscience shares attributes of forensic and political oratory. Like the political or deliberate oration, the case demonstrates the casuist's interest in the future happiness of his readers and urges them to take or to avoid a course of action in the future. Like the forensic oration it is concerned with the justice or injustice of actions and involves a knowledge of both written and unwritten laws and oaths.

The rhetorical modes of persuasion, according to Aristotle, are three -- portraying oneself as a man of prudence, virtue and goodwill; stirring the emotions of the audience; and proving a truth or apparent truth through examples and enthymemes, which correspond respectively to induction and deduction in dialectics.[75] Sanderson's case on the engagement relies most heavily on the enthymeme, which Aristotle calls the most effective of the modes of persuasion and recommends as particularly useful for the forensic orator.

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[75] The Rhetoric of Aristotle, trans. Lane Cooper (New York, 1932), pp. 7-16.

The logical structure of Sanderson's argument is readily apparent: the engagement is a repudiation of the subject's allegiance to his sovereign, taking it is unjust. If the declared intention of the oath is compatible with true allegiance, taking it is lawful. If the declared intention of the oath is the more liberal of the possible interpretations, it is compatible with allegiance to the King. The more liberal interpretation is the most probable and, therefore, anyone so understanding it may lawfully engage.

Although Sanderson's argument is essentially a string of enthymemes, he also utilizes the other modes of persuasion. He takes care to present himself as a virtuous and prudent man knowledgeable in the ways of the world and eager to be helpful. He specifically invokes the "Rule of Prudence" to authorize taking advantage of intentional ambiguities and the "judgement of Charity" in refusing to condemn men who have taken the oath.[76] His introductory note to Thomas Washbourne serves to establish the disinterestedness of his motives for writing, his goodwill toward his reader, and his cautious concern that his opinion not be misused. Appeals to the emotions of his readers are used sparingly but effectively. He is writing for Anglicans and directs his appeals to Anglican prejudices. He organizes his discussion around the question of good faith in taking the Puritan oath rather than around allegiance to rightful authority so that the leniency of his conclusion has fewer obstacles to overcome. His final opinion that a loyal royalist may interpret the oath in a broad sense and lawfully engage was open to the criticisms of encouraging compliance with regicides and of using papistical sophistries. Sanderson carefully disassociates himself from both enemy camps with emotionally charged passages before he commits himself to controversial opinions. Section I of the case roundly condemns those who took the Covenant. In Section II, where he first admits of ambiguity in the oath and judges charitably men who have taken it, Sanderson indulges in a largely irrelevant jibe at the Presbyterians, "most of whom, truly for my own part, when we speak of learning and conscience, I hold to be very little considerable."[77] He castigates "the impudence of the Jesuits" for justifying equivocation before he concludes in Section III that when an oath is capable of a double meaning one need not ask the imposer for clarification or bind oneself to any secret intention.[78]

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[76] Sanderson, Works, V, 25, 23.

Sanderson did, then, utilize traditional rhetorical methods in order to produce an argument capable of affecting men's decisions about the proper course of action with regard to the engagement oath. The case has drawn attention as an argument for a possible means of Anglican accommodation within the Commonwealth, and it seems also to have effectively influenced some of its readers to take the oath. The case does not, however, simply urge a course of action as persuasively as possible. It focuses throughout on the problems confronting individual consciences rather than on the expediency of a particular plan of action. The structure of Sanderson's case is not that of a call to action nor that of a defense of a particular point of view towards ecclesiastical policy. The material and approach peculiar to casuistry required considerable modification of traditional forms.

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[77] Sanderson, Works, V, 23. "Most of," Jacobson's note explains, was added later between the lines. This afterthought testifies to Sanderson's rigorous honesty even in such an appeal to prejudice.

[78] Sanderson, Works, V, 24.

The traditional oration was divided into exordium, divisio, or propositio, confirmatio, confutatio, and conclusio. Renaissance rhetoricians had adapted this approach to the needs of Christian preachers and usually discussed the parts of a sermon under such headings as exordium or textual praecognition, division, explanation of doctrine, confirmation, application, and conclusion.[79] In the best writers, of course, these formulae were not applied mechanically, but the outlines provided by the rhetoricians suggest the typical pattern of development in much of the discursive prose of the period. First the author tries to make his audience receptive to the argument that will follow. Then he introduces a theme or proposition and briefly outlines the major parts into which his discussion will divide it. In the body of the work he supports and develops this central idea, refutes his opposition and applies his theme directly to the audience. Sanderson's case develops in a pattern clearly different from even this very rough outline. His introduction is certainly not the elaborate classical exordium or the briefer survey of the context of the subject recommended by some Renaissance handbooks. There is no proposition and no division. Sanderson's solution to the problem, the proposition which the case attempts to prove, is not even given until the end. Although the body of the case offers proof for Sanderson's opinions and refutes their contraries, there is no separate confutation or confirmation. The case reaches a kind of emotional peak in the last section, but it does not end with a stirring peroration. Even the carefully controlled emotional appeal of Section VI is modulated by a final informal note to Thomas Washbourne.

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[79] See W. Frazier Mitchell, English Pulpit Oratory from Andrewes to Tillotson (London, 1932).

Thus, the rhetorical tradition does not adequately explain the structure and tone of "The Case of the Engagement." Speeches, sermons, and tracts usually rely heavily on the principles of classical oratory and argue a proposition as convincingly as possible. Milton, for example, in his prose generally presents his recommendations, whether for liberalized divorce laws, unlicensed printing, or educational reform, as positive suggestions for the improvement of human society. He certainly acknowledges the complexity of the issues, the difficulty of reassembling the scattered bones of truth, and the practical difficulties which accompany the responsibility of freedom, but his emphasis is on the positive merits of his proposal. He anticipates objections to his argument, but he subordinates these and shows that they do not, in fact, offer a possible alternative. The casuist, on the other hand, focuses on a dilemma. Since the case of conscience is basically the resolution of a problem, it does not simply recommend action persuasively. The emphasis falls on the problem as much as on the answer. The casuist answers a question and presents the problem he treats as real and difficult. He may conclude quite dogmatically that the only possible answer lies in his solution, but he does not dismiss the problem itself as a pseudo-problem created by failure to look at the world of action in the proper light. The case of conscience proposes an action which apparently involves both strong adgantages and strong disadvantages. The casuist must decide whether the proposed action is sinful or without sin. The proposed action, even when it is strongly endorsed, is not the casuist's original contribution. The alternatives are given; a man can either perform or not perform a certain act. The uniqueness of case divinity appears in the reconciliation of a specific action with the divine law, the discovery of the lawfulness of a proposed action in stipulated circumstances or of the lawfulness of refraining from such action. The case emphasizes the process of solving a problem more than a solution to difficulties. This process of discovery determines the shape of Sanderson's "Case of the

Engagement."

The first step in the process of discovery is accurate formulation of the problem. The short introduction, as I have said, prepares for the case primarily by establishing the good character and innocent intention of the writer. Sanderson wastes no space on exposition. He assumes that his readers know the situation and works the relevant facts unobtrusively into his discussion of the problem. Instead of asking directly for his audience's sympathy and interest, he assumes them and subtly underlines the seriousness of the issues he will treat with his remarks on the dangers of giving an opinion "in so tickle a point":

> I could not but foresee on the one side, if I should condemn it as utterly unlawful, how I should be looked upon by those that have all power in their hands, not as a refuser only, but a dissuader also of what they have thought fit to require. And on the other side, if I should allow it in any case lawful, what ill use would certainly be made thereof by multitudes of people.[80]

While the introductory note impresses us with the dangers of opposing "those that have all power," the first section of the case proper makes explicit the other horn of the dilemma: man sins against his conscience, the voice of God in him, by taking an oath contrary to full allegiance to his lawful sovereign. The first task in the case of conscience is to acknowledge the moral absolutes involved in the mundane human action and recognize the possible spiritual dangers. The problem exists, of course, because these dangers to the soul are only ambiguously implicit in the contemplated action. In Section II, therefore, Sanderson shows that the engagement oath can be interpreted in such a way that it is compatible with allegiance to the King. Thomas Washbourne and his friends could not solve their problem by compiling lists of partial justifications for subscription because failure to act for the right reason could be as morally damning as failure to obey a divine commandment. The conscience could be satisfied only by a clear line of reasoning from first principles. Suggestions of limitations to the duty of allegiance are irrelevant at this point. The question must be whether or not this particular oath repudiates allegiance to the house of Stuart.

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[80] Sanderson, Works, V, 20.

Having shown Washbourne and his friends how to set up the question, in the rest of the case Sanderson shows them how to answer it. The resolution of the problem moves unfalteringly from the universal to the particular. Section III is a short lecture on the obligations of oaths. The three basic rules which Sanderson proposes are that all vows, oaths, and promises must be taken honestly (that is, with a sincere intention of compliance), that they must be interpreted according to the ordinary use of language in a given context, and that only this normal use of language binds the swearer even when external knowledge indicates an ulterior intention on the part of the framers of the oath. Once he has established these general principles, Sanderson can raise in Section IV the particular question of ambiguities in the engagement oath. The general principles, however, supply only the framework. Deciding in Section V what the import of the ambiguously worded oath actually is necessitates recourse from theological principles to the world of experience and a careful weighing of conflicting evidence.

In the last section the particularizing process continues. Sanderson moves from universal principles to the particular act proposed and then to the individual agent. His final task is to demonstrate how to relate this knowledge of externals to one's own life. Since the act itself, the circumstances, and the intention of the agent must each be considered, in this section Sanderson concentrates on the mind of the man in action. He organizes his conclusion around the possible states of conscience -- the erring, the doubting, and the right conscience. He gives in turn his opinion on the act of subscribing by a man who believes he may take an unlawful oath, a man who is doubtful of the oath's legality, and a man who is sure that it is lawful.

This final section serves simultaneously as the last step in the demonstration of the decision-making process and as a summarizing conclusion. In order to review the basic principles and method by which man must judge his action in this case, Sanderson divides his condemnation of acting against one's own judgment of the oath's unlawfulness into three separate parts. First, taking the engagement while intending to break it is unlawful. Second, taking the engagement while understanding it to require a promise of unlawful action is a sin against the conscience. Third, the engagement oath requires a promise of unlawful action if it is understood as contrary to one's true allegiance. Anyone who takes it with that understanding sins against his conscience.

The three parts on men who subscribe with unlawful intentions review the basic principles of the sanctity of oaths, the inviolability of natural allegiance, and the moral absolute of following one's own conscience. The division into three separate paragraphs also functions by slowing down the pace with warnings against over-simplification as Sanderson moves to his foreseeable justification of subscription. The next part, which condemns any man who subscribes with a doubting conscience reviews the criterion for resolving a doubting conscience, "some probable ground of reason," and looks at another kind of defective intention: acting "for any temporal benefit, or avoiding of any temporal damage."[81] Finally, Sanderson's opinion on the man who has fully considered and believes without any doubts that the engagement oath in no way hinders his obligation to his King is Sanderson's prototype of the ideal mature, enlightened conscience and an indirect plea for freedom of individual action in this particular case.

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[81] Sanderson, Works, V, 34.

"The Case of the Engagement" is a didactic work exhorting men to virtue, a description of various kinds of human evil and good, and a detailed argument justifying compliance with an act of Parliament. It is structured, however, differently from works of other genres with these ends in that it is not primarily descriptive or persuasive. It attempts to imitate the process by which man can reach right decisions, to embody what it recommends. Sanderson starts by setting up an unanswered question and by indicating the moral laws which may or may not prevent a proposed act. He then indicates the theological principles which govern cases of this particular kind and demonstrates the deductive process by which man should relate his actions to general rules and the inductive process by which questions of fact can be decided. Finally, he tries to lead men to explore their own consciences. Notably, he emphasizes the exploratory nature of his form by sprinkling it liberally with rhetorical questions. By this practice of moving into new steps in his analysis with anticipatory questions, he stresses the continuity of his line of thought and maintains a semblance of dialogue with his questioner. He tries in his case to embody the discovery of a solution to a problem and to take the reader with him each step of the way.

The casuist needs to develop, of course, an appropriate tone and prose style as well as a suitable scheme or organization. Sanderson's solution to that problem is again to practice what he preaches. The tone of the case is generally detached and calmly rational. Since the conscience is a faculty of the conscious intellect, not a religious emotion, he takes pains to present his decision as the product of an incontrovertible logical process. His subject matter requires a rather complex prose style. His material is intrinsically complicated, and its particularity and focus on exceptions rather than generalizations tend to produce long and complex sentences. He avoids obscurity by keeping his syntax clear and most of his sentences loose and flowing rather than periodic or markedly antithetical. His diction is direct and vigorous but rarely heightened by strongly emotive words or figures of speech.

This clarity and rationality do not mean that Sanderson scorned artfulness. His use of traditional rhetorical techniques to engage his audience's sympathy is subtly effective more because of its rarity than its originality, but his style is artistically effective in its very honesty and rationality. Of course, any author presents his material as convincingly as he can, but Sanderson stresses the logical framework supporting his ideas to an unusual degree. His freedom from grandiose rhetorical flourishes and his insistence on logical coherence coupled with skillfully controlled emphasis become themselves rhetorical devices.

One way by which Sanderson calls attention to his logicality is to cement his paragraphs together with logical connectives. The sentences in a typical paragraph, for example, begin as follows: "First, then," "For if," "Wherefore," and "The reason whereof, is because." While rhetoricians discouraged using such obvious logical formulae in passages designed to arouse feeling, the pervasive syllogism had its admirers. Hall, for example, portrays the ideal wise man as someone whose "mind doth nothing all his time, but make syllogisms, and draw conclusions."[83] These connectives give Sanderson the benefit of this aura of wisdom and piety and also help to keep the reader aware of the logical patterns into which his intricate sentences fit.

I have mentioned before how Sanderson involves his reader and achieves coherence by first formulating the next step in an argument as a question and then by providing an answer. Another device he uses to this same end is that of calling attention to the inevitability of the dialectical machinery he has set in motion with such phrases as "the next Inquiry must be," "there are two things more to be done," and "Now cometh in to be considered in the last place."[84] Similarly, he often clearly labels his unproved premises and explicitly assumes his reader's agreement: "I take that for a clear truth," "the reason whereof is manifest," "obvious to every man's understanding."[85]

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[83] Hall, p. 147.

[84] Sanderson, Works, V, 23, 27, 31.

All this creates a densely packed prose style which steadily drives forward the closely reasoned and subtle argument. This density is occasionally relieved by climactic periods and short pointed sentences, but breathing space is provided most significantly by the division of the body of the case into six separate sections and the further division of each section into from three to six parts. These numbered passages typical of casuistry provide the reader with a rough outline of the complicated argument, and the exhibition of the logical framework impresses him with the systematic and exhaustive treatment he is reading.

The conclusion to Section VI demonstrates the admittedly limited effects this style is capable of:

> That if any man, after a serious desire and moral endeavour of informing himself as rightly and impartially as he can, what are the duties and obligations of his allegiance on the one side, and what is most probably the meaning intended by the words of the Engagement on the other side, shall find himself well satisfied in this persuasion, that the performance in the mean time of what is required by the Engagement, so understood as he apprehendeth it ought to be, is no way contrary (for any thing he can discern for the present) to his bounden Allegiance, so long as he is under such a force, as that he cannot exercise it; and likewise, that whensoever that force is so removed from him, or he from under it,

> as that the Obligation of the engagement of itself determineth and expireth, and out of these considerations, rather than suffer extreme prejudice in his Person, Estate, or necessary Relations, shall subscribe the Engagement; since his own heart condemneth him not, neither will I.[86]

Sanderson never rises to heights of eloquence, but he has created here a period that is a fitting conclusion for his case. He pulls together intelligibly the bewildering array of considerations which a man faced with this problem must assess in order to choose wisely and live well in a complex world. This painstaking prose is less the product of a legalistic mind or of an externally imposed logical framework than of a conceptual system in which thought and action are inseparable. The motives from which a man acts, the information available to him about the circumstances of a proposed action and of its consequences, and an external standard of moral value are inextricably bound together. Sanderson delicately traces their relations to each other in a particular case and dexterously suspends his final resolution of the case from the intricate network of qualifications and reservations. He provides a model for men to follow and achieves a quietly effective forcefulness as the slow, hesitating process of logic produces finally the assured and far from naive judgment of charity.

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[86] Sanderson, Works, V, 35.

Chapter III

Robert Sanderson's "The Case of the Use of the Liturgy"

I

The Historical Context of the Case

The characteristics which distinguish Robert Sanderson's "The Case of the Engagement" appear in different form in other casuists and in Sanderson's other cases. The case on the Engagement controversy is only indirectly a problem of ecclesiastical uniformity. The oath did not specifically raise the question of ecclesiastical allegiance, but the fortunes of the church had been so closely bound to those of the throne that by 1650 civil and ecclesiastical allegiance could not be completely separated. Even though Sanderson chose to argue the case on the grounds of a liberal interpretation of the Puritan oath, his decision clearly had implications for the theory of ecclesiastical uniformity. He provided an elaborate justification for individual responses by Anglicans to an important Puritan test of loyalty instead of demanding concerted group opposition as a unified church. "The Case of the Use of the Liturgy," the other case of conscience in which Sanderson deals with the problem of of unity and uniformity, affected him more personally and forced him to come to grips more directly with the problems inherent in the ideal of a unified church maintained through uniformity of basic thought and action.

When Parliament passed an ordinance prohibiting the use of *The Book of Common Prayer* in any church service, it created a case of conscience for every loyal Anglican clergyman. He was bound by the only ecclesiastical authority he recognized to use the liturgy of the Prayer Book and no other, yet he was threatened by the government in power with expulsion from his benefice if he did so.[1] Partly because of the lack of strong episcopal leadership, Anglicans dealt with the problem in various ways. Gilbert Sheldon deplored the resulting lack of uniformity in a letter to John Barwick in January of 1653:

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[1] "An Acte for the uniformity of Common prayers and service in the Church, and administration of the Sacrament," which was printed in *The Book of Common Prayer* stipulates "that all and singular Ministers in any Cathedral or Parish Church or other place within the Realmes of England...shall ...be bounden to say and use the Mattens, Evensong, celebration of the Lords Supper, and administration of the Sacraments, and all other Common and open prayer, in such order and fourme as is mentioned in the saide Book." *The Book of Common Prayer and Administration of the other Rites and Ceremonies of the Church of England* (1604). In addition, the thirty-fourth of the Thirty-nine Articles states that while traditions and ceremonies may be changed by any national church "according to the diversity of countries, times, and men's manners," no individual may, "through his private judgment...break the traditions and ceremonies of the Church." Cited by Helen C. White, *English Devotional Literature 1600-1640* (Madison, Wis., 1931), p. 32, from *The Text of the Thirty-Nine Articles of 1553, 1563, 1571*, ed. W. M. M[eredith], (London, 1889). The preface to the Prayer Book and the thirty-nine articles are, Sanderson says elsewhere, the "most authentic writings of the Church." Sanderson, *Sermons*, I, 233.

> He that hath either his eyes or ears open must know the confusions to be great, and the state of [this poor Church] most lamentable; and that not only in regard of the wild schismatics, but even of those who would be owned, and may pass for the better and sounder part.... Amongst those that either are, or would be thought loyal subjects to the King and obedient sons of this Church, there is great diversity of opinion and practice about [Common] Prayer and the public worship of God; some believing themselves excused by the times, if they wholly omit it, some contriving the substance of it into a prayer of their own making, supposing they have done their duty, if they pray nothing against the old form; others retain part, some more, some less, according to their several judgments; and some again holding themselves obliged to use all, according to their former engagements; and not so much as to communicate with any that use it not (supposing them schismatical)... to the greater scandal of the well affected laity.
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> Thus it is already; and 'tis like time will produce more divisions, both in this particular, and many others; and in that confusion the Church is wholly lost, if timely remedies be not applied. The persons thus divided in judgment are men of worth; there being on all sides some most to be valued both for their piety and learning...so like enough to give reputation to their several opinions and practices; and so continue the breach, God knows how long.[2]

Sheldon was concerned about the Anglican reaction to the prohibition of the Prayer Book not simply because of the personal problems involved but because, from his point of view, the very existence of the true church was at stake. During the 1650's, Puritan supremacy at home and Roman Catholic proselytizing of Royalist exiles on the continent threatened the Church of England with extinction. Many men who were sympathetic with the old order were content to operate as a minority influencing the new establishment from within, but Sheldon and Hammond, Laud's successors as leaders of the High Anglicans, insisted that the Church could survive as the national embodiment of the true catholic faith only by maintaining its unity through a uniform opposition to the usurping schism.[3] Although many loyal clergymen were retaining their livings by changing the church service enough to satisfy local officialdom, these rigorous High Churchmen objected to any clergyman's departing on his own authority from the service of the Church of England prescribed by The Book of Common Prayer. To them the issues involved were less personal and moral than political and ecclesiastical. To disregard a law of the Church unless released from it by lawful authority was to further the process of disintegration which they were struggling against.

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[2] Quoted in Bosher, The Making of the Restoration Settlement, p. 18.

The obvious remedy for the situation Sheldon described was for the bishops of the church to take official action to dispense with the duty of strict conformity to the Prayer Book. In May, 1653, Jeremy Taylor was calling the attention of John Warner, Bishop of Rochester, to "the clergy's desire to have the Common Prayer taken off, and some other forms made."[4] Shortly after this Henry Hammond wrote to Sheldon about the problem:

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[3] I am indebted to Robert Bosher's helpful analysis of the main groups of Anglican sentiment during this period.

> Your presence will be very useful at Richmond, where some of our ecclesiastical affairs are now afoot, and by what I hear concerning a report made to the Bishop of London by Dr. Jeremy Taylor concerning the clergy's sense to have the Common Prayer taken off and some other forms made, I cannot but wish you were there to interpose your judgement and authority.[5]

Sheldon tried repeatedly to arouse the bishops to action of some kind, but they were frightened of setting a precedent which Puritans could capitalize on in the event of a Restoration and preferred to wait and to hope that Cromwell would lift the ban on the Prayer Book.[6] No official action was taken and many Anglican clergymen were faced with a difficult case of conscience.

This was a personal case for Robert Sanderson, and his reputation as a casuist caused his advice to be widely sought by others facing the choice of disobeying the new civil authority and risking the loss of their livings and the wrath of the Parliamentary forces or of disobeying the true church and, perhaps, strengthening her persecutors. The ordinance was passed on January 3, 1645; thus, from 1645 until 1660 any minister using the Prayer Book could be confronted with this case of conscience. "The Case of the Use of the Liturgy" is Sanderson's response to a request for his solution to the problem in 1652.

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[4] Harleian MSS. 6942 f. 24, quoted in Bosher, p. 22.

[5] Harleian MSS. 6942 quoted in C. J. Stranks, The Life and Writings of Jeremy Taylor (London, 1952), p. 178.

[6] Bosher, pp. 19-23.

In this case Sanderson argued forcefully that modifying the established liturgy was lawful under the existing condition, and this decision caused "The Case of the Liturgy" to become one of his most influential and controversial cases of conscience. Although it was not published until Walton in 1678 printed it with his Life of Sanderson, it seems to have been widely read in manuscript. Three manuscripts are extant and there are several immediately contemporary references to it.[7] While Sanderson's reputation as a casuist assured that his opinion would be heard with respect, it by no means established a unanimity of Anglican opinion on the subject, however. Professor Novarr has demonstrated that Walton published Sanderson's case with the title "Bishop Sanderson's Judgment Concerning Submission to Usurpers" so that it would not seem to justify modification of the established liturgy by dissenters in 1678. Walton used the case in his life of Sanderson to illustrate the insignificance of Sanderson's concessions to the Puritan regime. Nevertheless, as Professor Novarr also observes, the contemporary reaction to the case was less than unequivocal admiration.[8]

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[7] Jacobson based his text on the transcripts of the case in mss. in New College Library (cccxxxix), the Library of Corpus Christi College (B, 2, 12), and the Library of Queen's College Oxford (f. 183).

Sanderson had many ties with the Laudian or High Church Group and is usually considered one of them, but they disapproved strongly of his decision that adjustment of the liturgy to the circumstances of persecution was lawful. Henry Hammond complained to Sheldon of Sanderson's position regarding the Prayer Book, "When you meet him, endeavour to infuse some courage into him, the want of which may betray his reason. His opinion will betray many."[9] After the case appeared in circulation, Herbert Thorndike sent Sheldon a brief refutation of it and even Brian Duppa, who agreed with its basic tenets, hoped that its printing could be prevented.[10] As Hammond had anticipated, Sanderson's opinion was effectively persuasive. Bishop Barlow prefixed to the Queen's College MS. of the case the following note on the impact of Sanderson's decision:

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[8] David Novarr, The Making of Walton's Lives, Cornell Studies in English, vol. XLI (Ithaca, N. Y., 1958), pp. 431-434.

[9] Sanderson, Works, VI, 458.

[10] Sanderson, Works, V, 58-89.

> ...Some of the most eminent Divines of the Church of England met in London, Anno 1652, and determined to excommunicate all those who forbore reading the Common Prayer: because, by such compliance with an Ordinance of Parliament, they did actually disobey the Established Law, and disown their allegiance to their lawful though depressed Sovereign, and their obedience to the Bishops and Church of England. But hearing of Dr. Sanderson's practice, they suspended the business till his judgment could be had. The return he made to them was that which here follows; which being received by them and read, it put an end (and with good reason it might) to their design.[11]

Professor Bosher agrees that Sanderson's case probably did prevent a decision condemning compliance with the law and calls the crisis over Common Prayer the "most important in Anglican history" because the failure of Anglican bishops either to grant dispensation to ignore the canon law or to condemn the breaking of the law meant finally that the church was left without episcopal leadership and that power was absorbed by the militant High Churchmen who made the church of the Restoration.[12]

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[11] Sanderson, Works, V, 37.

[12] Bosher, pp. 16-23.

II

Summary and Structural Analysis of "The Case of the Use of the Liturgy"

Sanderson's case of conscience on the controversy over the liturgy differs from the case on the Engagement oath in several important respects, but it reveals basically the same conception of casuistry. Again the case is in epistolary form and begins with a brief statement of the question and personal remarks. This time, however, Sanderson has no informal messages for his correspondent, and his personal narration is a rather elaborate statement of his own solution to the problem.

First, Sanderson describes his reaction to the decree by the civil authorities before it posed any immediate, personal threat. In this situation, he ignored the new law and continued to use the traditional service. A new problem arose, however, when a troop of parliamentary soldiers were stationed in his town. On the first morning after their arrival Sanderson's use of The Book of Common Prayer so enraged them that they seized and destroyed it. For the six months of their stay from November, 1644, until May, 1645, Sanderson waived the use of the Book, "besides that for want of a Book, of necessity I must, I saw that it behoved me also for the preventing of further outrages."[13] This passage is confusing, for, while Sanderson claims that he continued to use the whole liturgy for some time after the ordinance forbidding it, he says also that he altered his practice with the stationing of the soldiers at Boothby Pagnol in November of 1644, two months before the ordinance was passed. In spite of this contradiction, certain principles emerge clearly from Sanderson's account of his response to these two sets of circumstances. He felt no obligation to obey the laws of the de facto government, and he was willing to omit part of the prescribed liturgy in order to prevent disturbances during the service. He adjusted his performance to his audience. By acting cautiously and "with most secrecy" he persisted in the established rites while administering the sacrament and performing marriage and burial services. During ordinary services, he avoided conflict with the soldiers who were present by omitting parts of the Prayer Book liturgy. He used only the Confession and those parts which were Scriptural, such as the Lord's Prayer, the Benedictus from St. Luke, and the Psalms. Sanderson pursued this same course after the soldiers left for the battle of Naseby. He used as much of the Prayer Book service as he dared, "omitting sometimes more, sometimes less, upon occasion, as I judged it most expedient, in reference to the Auditory.... But all the while, the substance of what I omitted I contrived into my Prayer before Sermon, the phrase and order only varied, ... as that any person of ordinary capacity might easily perceive what my meaning was; and yet the words left as little liable to exception or cavil as might be."[14]

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[13] Sanderson, Works, V, 38.

This stratagem of omitting the parts of the liturgy that he judged his congregation would not tolerate seems to have worked satisfactorily for some five years, but conditions changed again about two years prior to the writing of the case in 1652. A friendly member of Parliament advised Sanderson that some Presbyterian ministers had complained about his refractoriness in obeying the Parliamentary ordinance and the negligence of officials in forcing him to comply. He told Sanderson that although the government had been overlooking his practice, they could not ignore it after public complaint had been made and warned that he must either lay aside The Book of Common Prayer or lose his living.

This time Sanderson was forced to confront the basic conflict directly. He had either to modify the traditional conception of the church unified and strengthened through uniformity and discipline in ritual or to relinquish altogether his effective service to the church as a pastor of his flock. He reports that he did not need to deliberate for long, "I having long ago considered of the case, and resolved what I might with a good Conscience do, and what were fittest for me in prudence to do, if I should ever be put to it, viz. to forbear the use of the Common Prayer Book, so far as might satisfy the letter of the Ordinance, rather than forsake my station." He then describes in some detail the service which he devised as "likeliest neither to bring danger to myself by the use, nor to bring scandal to my brethren by the disuse of the established Liturgy."[15]

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[14] Sanderson, Works, V, 39.

These remarks suggest the principles on which Sanderson based his decision. He unashamedly admits his desire to protect himself practically and, at the same time, feels his moral responsibility as a Christian and as a religious leader. His solution may appear initially as merely the machinations of a practical man; nevertheless, this ingenious legal hair-splitting is an organic part of Sanderson's attempt to define and to defend the working of the individual conscience within the ecclesiastical polity.

The procedure Sanderson adopted when threatened with expulsion was an extension and elaboration of his previous practice of leaving out parts of the liturgy which might cause criticism and working them into the prayer before the sermon in another form. He continues to use the Scriptural parts of the established liturgy, certain parts he includes "only when I think the Auditory will bear it," and he completes the service with forms of his own devising.[16] As an example of the work of his own composition he gives the text of his Confession, which proves to be an amplified version of the prescribed form without substantial omission. He also substitutes for the Litany several short prayers and collects "modelled into the language of the Common Prayer Book" and introduces a hymn of thanksgiving based on the Psalms and the Church collects.[17] He concludes this section of the case by asserting his intention of continuing this practice "unless some happy change of affairs restore us the liberty of using the old way again" and his belief that it "may stand with the Principles as well of Christian Simplicity as Prudence."[18]

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[15] Sanderson, Works, V, 39-40. Sanderson had tried his hand at Prayer Book revisions before. In 1641 the House of Lords appointed a committee to consider revisions of the Prayer Book, and Sanderson took part in some of these discussions. "The Life of Dr. Sanderson," Walton's Lives (The World's Classics), (London, 1927), pp. 371-372. Francis Proctor and Walter H. Frere, A New History of the Book of Common Prayer (London, 1961), p. 152.

The remainder of "The Case of the Use of the Liturgy" Sanderson devotes to anticipating and answering criticisms of his solution to the problem raised by the outlawing of the Prayer Book. The strongest argument against his practice and the one he examines first is based on the concept of the obligation of human law. Sanderson begins by stating the opposing case in almost syllogistic form. It may be objected, he says, that every rightly established human law obliges the subject to obedience, "in such manner and form as in the said Law is prescribed, and according to the true meaning and intention of the Lawgiver therein." He amplifies the major premise by defining a "rightly established law" as one which is enacted by lawful authority, is compatible with divine law, and has neither been repealed by lawful authority nor fallen into disuse with the tacit consent of the lawgiver. Given this assumption and the premise that the Act for the Uniformity of Worship printed in the Prayer Book is such a rightly established law, the conclusion can be drawn that the Act of Uniformity still binds the consciences of loyal subjects and "that therefore no Minister publicly officiating in the Church can with a good conscience either omit any part of that which is commanded by the aforesaid Law, or use any other Form than what is contained in the aforesaid Book; but must either use the Form prescribed in the Book, or else forbear to officiate."[19] While he grants the premises of this argument, Sanderson denies its conclusion. His argument turns on the phrase "according to the intention of the Lawgiver." He concedes that the law requiring the use of the Prayer Book is rightly established and thus obliges the conscience "according to the intention of the Lawgiver," but he contends that the word "intention" is ambiguous. Every law presupposes two intentions, the "particular, actual, and immediate intention [which] is sufficiently declared by the words of the Law," and the "general, habitual, and ultimate intention...which is to have any influence into and an over-ruling power over all particular Laws, viz. an intention... to procure and promote the public good." The opposing argument assumes that the conscience is bound according to the particular intention or the meaning of the words of the law, but Sanderson maintains that the particular intention binds only when it is consistent with the ultimate intention:

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[16] Sanderson, Works, V, 41.

[17] This hymn of general thanksgiving is the only part of his service which Sanderson defends not simply as a way to cope with an obnoxious law, but as a positive addition to the service, since the official liturgy was without one. The General Thanksgiving of The Book of Common Prayer was not adopted until 1662.

[18] Sanderson, Works, V, 42.

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[19] Sanderson, Works, V, 43.

> ...where the observation of the Law, by reason of the conjunction of circumstances or the iniquity of the times ...would rather be prejudicial than advantageous to the public, or is manifestly attended with such inconveniences, and sad consequents to the observors, as all the imaginable good that can redound to the Public thereby cannot in any reasonable measure countervail, in such case the Law obligeth not, but according to the latter and more general intention only.[20]

Thus, according to Sanderson, in unusual circumstances or times of disorder, when obeying a given law entails severe personal suffering, each man must "weigh the benefits and inconveniences, as well on the one side as on the other" and decide whether the observation or the violation of the law will be of more benefit to the Church and Commonwealth. He must sacrifice his "estate, liberty, or even life" if it seems probable that the observance of the law serves the public good more than his loss harms it. But should it seem likely "that the preservation of such a person's life, liberty, or estate, would more benefit the Church or Commonwealth, then the punctual observation of the Law at that time, and with those circumstances, would do, it were an unseasonable, unreasonable, and pernicious scrupulosity for such a person to think himself in that case obliged."[21]

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[20] Sanderson, Works, V, 44.

Sanderson's next step in the case is to demonstrate what considerations led him to decide that the public welfare was better served by the breach than the observance of the law regulating the liturgy. He proposes three evil consequences which would follow if faithful ministers should refuse to abandon the Prayer Book:

> 1. The utter undoing of so many worthy persons fit to do God and His Church service .... 2. The depriving of those persons of the opportunities of discharging the duties that belong unto them in their Ministerial Calling.... 3. The delivering over the sheep of Christ, that lately were under the hands of faithful shepherds, into the custody of ravening wolves...when such guides shall be set over the several Congregations as will be sure to misteach them.[22]

He professes to know of no benefits accruing from the observation of the law which could possibly counterbalance these manifest evils and concludes this section by warning that the man who obeys the law and loses his benefice "by his over nice scrupulosity" may well be "guilty of his own undoing, of deserting his station, and of betraying his flock."[23]

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[21] Sanderson, Works, V, 46-47.

[22] Sanderson, Works, V, 47.

The other two issues which Sanderson discusses in this case are the dangers of scandal and of schism. Although he discounts the objection based on the danger of scandal as one that "need not trouble us much,"[24] he devotes as much space to answering this objection as he has to that based on the obligation of law. Scandal, that is, religious behavior which gives offense and thus brings discredit on religion or conduct which presents a stumbling block to the faith of others and causes them to sin, was a constant issue in the religious disputes of the seventeenth century. Puritans saw the ritualism which Laud fostered as scandalous because it tainted the Church with Papist superstition and because it seduced weak Christians into idolatry. From the Anglican point of view, on the other hand, Puritan recalcitrance on such matters as wearing surplices and kneeling to receive communion was wrong not simply because of its intrinsic disobedience but also because of the scandal caused by the opposition to church authority. Since Sanderson himself had frequently accused Puritans of causing scandal in their efforts to reform the church, he must now defend himself against the charge of scandal, the danger that if clergymen follow his advice, simple men might be seduced by their example "to set slight by all authority, and to take the liberty to obey and disobey the laws of their Sovereign at their pleasure."[25]

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[23] Sanderson, Works, V, 48.

[24] Sanderson, Works, V, 48.

Sanderson counters this criticism with three arguments. His first rebuttal dismisses the objection instead of answering it. He argues that the avoidance of scandal is a duty of charity and thus less obligatory than obedience to lawful authority, which is a duty of justice. He has already demonstrated that the duty to obey the law does not oblige under these circumstances; therefore, it is unreasonable to suppose that fear of scandal binds men's consciences where the duty of obedience does not. In this argument Sanderson begs the question since his conclusion that the law may be disregarded depends directly on the anticipated consequences of such action to the Church and its possible effects on others. His second defense against the objection of scandal is more to the point. While many evil consequences can be expected from observing the law, the danger of scandal is equally strong on both sides of the question. Just as it can be argued that the violation of this one law by eminent men might lead other men to hold all law and authority in contempt, so the example of strict observance of the law might lead men to over-scrupulousness "to their own undoing and the destruction of their people."[26]

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[25] Sanderson, Works, V, 48.

These two arguments are only preliminary, however, to the third point, which entails a thorough exposition of the kinds of cases of scandal and a method for analyzing them. This section on judging cases of scandal is in itself an important discussion of a key concept in seventeenth-century theology and was, in fact, published independently with only slight variations as "The Case of Scandal." It functions in the case on the liturgy by providing a detailed theoretical basis for Sanderson's conclusion on a fundamental question involved in the case and by convincing the reader of the thoroughness of his treatment and the expertness of his casuistical method at a crucial place in his argument.

According to Sanderson, in order to judge when the danger of scandal should determine a course of action, one must understand how the sin of scandal occurs. Sometimes scandal results from a bad example or adequate cause, but sometimes scandal occurs without sufficient cause, and sometimes cause is given without actually giving rise to scandal. Since a man's guilt is determined by his own actions and not by others' reactions to him, the general rule which Sanderson recommends for judging moral responsibility is to examine the action which gives rise to scandal. The man who gives just cause for scandal is guilty whether or not anyone follows him into sin, but the man who is scandalized when no offense has been given is himself solely to blame.

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[26] Sanderson, Works, V, 49.

There are, Sanderson says, four possible ways that a man may be guilty of scandal. He describes each of them, citing appropriate scriptural examples, and then formulates a general rule for avoiding each kind. First, a man who commits an evil act before another is guilty of scandal in addition to the other sins inherent in his act, regardless of his intention or of the consequences of his action. Since "whatsoever is in itself and in its own nature evil, is also of itself and in its own nature scandalous, and of ill example," an evil action makes a man guilty of scandal whether or not he intends to draw another into sin and whether or not any one is actually scandalized. After illustrating this kind of scandal by the stories of Eli's wicked sons, Hophni and Phinehas (I Sam. ii. 17, 22), and David and Bathsheba (II Sam. xii. 14), Sanderson presents the rule, "Do nothing that is evil for fear of giving Scandal."[27]

Guilt for giving scandal is also inevitable whenever a man does something with the intention of drawing another into sin. In this case it does not matter whether the act itself is evil or merely appears evil enough that another imitating it might do something really sinful. Nor does it make any difference whether or not anyone is in fact seduced into sin. "The wicked intention alone, whatsoever the effect should be, or what means soever should be used to promote it, sufficeth to induce the guilt of giving Scandal upon the doer." The Biblical example of this sin is the account of Jeroboam, who seduced Israel to idolatry to further his own ambitions. "Here the Rule is, Do nothing, good or evil, with an intention to give Scandal."[28]

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[27] Sanderson, Works, V, 50.

These two cases of guilt from scandal are relatively clear-cut. Since an evil act committed for a good purpose and an innocent act done with an evil intention are both traditionally prohibited in the Christian ethic, Sanderson's demonstration that an action is sinful when either its intention or its matter is scandalous causes little trouble. With the third and fourth kinds of scandalous behavior, however, he moves into an area where black and white merge into shades of gray and more subtle moral distinctions are necessary. These categories deal with the effect of circumstances on cases of scandal. Clearly, if man is to be morally responsible he must duly consider the context and possible consequences of his actions. The Christian duty to avoid causing others to sin is clear: "It is good neither to eat flesh, or to drink wine, nor anything whereby thy brother stumbleth, or is offended, or is made weak" (Romans xiv.21). "Woe to that man by whom the offense cometh" (Matt.xviii.7). On the other hand, no one can possibly foresee all the eventual effects of his behavior; no one, moreover, is guilty of another man's sin, "for there is no man sinneth, unlesse it be by his own will."[29] The consent of the will was considered so necessary to sin that the Augustinian precept "If an act is not voluntary it is not sinful" is axiomatic in casuistry. Sanderson accepts the basic principle that man must take responsibility for the consequences of his deeds, yet he recognizes that to regard the possibility of misinterpretation as an absolute and final criterion in making every decision would be an intolerable tyranny. He believes that the Christian is obliged to avoid scandal, but acknowledges too that this duty is qualified by other duties and by the limitations of personal control over external causality. He resolves the problem by evaluating each case in terms of the reasons for the posited action and the agent's regard for the safety of others.

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[28] Sanderson, Works, V, 51.

The third category which he proposes, then, is the commission before another of a convenient but unnecessary lawful act with the knowledge that the observer will probably take scandal. He decides that "In such case, if the thing to be done be not in some degree, prudentially necessary... he is bound in charity and compassion to his brother's soul, for whom Christ died, and for the avoiding of Scandal, to abridge himself in the exercise of his Christian Liberty." After citing several Pauline treatments of this case (Rom. xiv.13, 21; xv.1-3; I Cor. vii. 7-13; ix. 12, 15, 19-22; x. 23-33), he finishes this section with the rule, "Do nothing that may be reasonably forborne, whereat Scandal will be taken."[30]

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[29] Sanderson, Lectures, p. 61. Sanderson cites St. Augustine when he discusses this problem in his sermons. Sermons, I, 503-505.

The last way in which a man may be guilty of giving scandal, according to Sanderson, is to do something lawful and necessary without taking precautions to prevent scandal. "In such case the bare neglect of his brother, and not using his uttermost endeavour to prevent the evil that might ensue, maketh him guilty." The scriptural authority for this case is the Old Testament law:

> And if a man shall open a pit, or if a man shall dig a pit, and not cover it, and an ox or an ass fall therein;
> The owner of the pit shall make it good and give money unto the owner of them; and the dead bones shall be his.
> Exodus xxii. 33-34

Sanderson says that the trespass of this man is relevant "inasmuch as he was the occasioner of that loss to his neighbour, which he might and ought to have prevented. Here the Rule is, Order the doing of that which may not well be left undone, in such sort, that no Scandal, so far as you can help it, may be taken thereat."[31]

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[30] Sanderson, Works, V, 41.

Sanderson's solution to the problem of scandal thus requires careful analysis of the material, efficient, final, and formal causes of the proposed action, that is, consideration of the moral nature of the action itself and of the agent's intention, the purpose of the action, and the way in which it is performed. A defect in any of these makes the agent guilty of scandal. The probability of the occurrence of scandal is noticeably not among these criteria, however. When the action and the intention are innocent, the need is urgent, and the performance is in the spirit of charity, moral responsibility rests with the taker and not the giver of scandal.

Having set up this scheme for classifying cases of scandal, Sanderson turns to the case in question. Since he has shown already that laying aside The Book of Common Prayer is not unlawful in such circumstances and since he can assume an innocent intention in a man for whom this situation is a case of conscience, he dismisses the first two categories. Since he has demonstrated in his discussion of the obligation of the law the urgency of the circumstances, the case of whether or not to alter the established liturgy does not fit into the third group of merely convenient acts. A case in which the matter and the intention are innocent and the need is pressing is an example of the fourth category. The rule for this situation does not forbid the action but only requires that it be done with "chariness, tenderness, moderation, and wisdom."[32] Sanderson includes his suggestions on how the change can best be handled in the next section dealing with the charge of schism.

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[31] Sanderson, Works, V, 52.

He again begins by stating and approving the argument in general terms. The casuist's task is not so much the formulation of theological or ethical principles as the application of generally accepted principles to particular cases. Thus Sanderson agrees readily with the proposition that opposing either the established church government or liturgy is equally as schismatical as opposing central doctrines. He disagrees completely, however, with the arguments drawn from it which condemn all alterations of the liturgy as schismatical. There are, he says, three prevalent but fallacious extensions of the basic proposition. The first is the argument that to do the very thing which makes some men schismatics is to share their schism and, moreover, to become guilty of either hypocrisy or uncharitableness by doing oneself what one condemns in others. What the twentieth century calls guilt by association Sanderson refutes with "the old saying, _Duo quum faciunt idem non est idem_."[33] Doing the same thing that schismatics do is not necessarily schism unless it is done on the same principles.

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[32] Sanderson, _Works_, V, 53.

[33] Sanderson, _Works_, V, 54.

The other parts of the objection of schism are based on the dangers of a "seeming compliance" with schismatics. Even if doing out of necessity what schismatics do willingly is not actually schism, such "symbolizing with them," some men argue, is not compatible with Christian simplicity, especially for a minister, who should avoid even the appearance of evil (I Thess. v. 22), and, in addition, may confirm others in their schism.[34]

These objections, Sanderson replies, are merely the charge of scandal in a different form. He has shown why he believes that circumstances are so dire that compliance with the letter of the parliamentary law is necessary and why the danger of misinterpretation requires only that the necessary changes be made with "godly discretion."[35] Since prudence compels the alteration of the liturgy, charity demands the change be made in such a way that it is clear that it is enforced and not done out of contempt for lawful authority or from schismatical principles. Sanderson concludes "The Case on the Use of the Liturgy," suggesting six general directions for discouraging scandal or schism. He first recommends avoiding any unnecessary intercourse with schismatics, especially in their church services. Next, he advises shunning vocabulary characteristic of "the Godly party" and retaining traditional ecclesiastical and theological terminology. His third and fourth directions are a very general summary of his own procedure in forming a new liturgy. He advises using as much of the Prayer Book as the local officials will tolerate, following the prescribed order and substance as closely as possible when the text must be changed, and embellishing new forms with explanatory passages from other places in the Prayer Book. His proposal for specific passages which must be omitted, such as prayers for the King and bishops, is to include them in general terms so that the congregation will clearly understand what is intended. Sanderson's final suggestion of how to practice godly discretion to protect oneself and yet avoid scandal is to use the sermon to expose the weaknesses of the Puritan position and to defend Anglicanism against Puritan criticism.

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[34] Sanderson, Works, V, 54.

[35] Sanderson, Works, V, 55.

III

Sanderson's Argument in Comparison with Herbert Thorndike's

"The Case on the Use of the Liturgy" exemplifies in a modified form the same fundamental concerns evident in the case on the Engagement. Here too Sanderson's subject is the decision-making process of the individual with a genuinely difficult moral problem. The occasion of the case was an important problem for the church as a whole and for individual clergymen. It admitted no easy solution and inevitably raised agonizing doubts for many. In this case, as in this earlier one on the Engagement, Sanderson's attention is on the actual operation of the individual conscience in the context of a complex social fabric rather than on universal truths inherent in particular events. Sanderson tries to show men how to resolve their doubts and achieve a sure conscience through the use of reason. He answers the objections which a doubting conscience might raise to his solution, but in the case on the liturgy he is less concerned with the possibility that men might act without fully resolving their doubts than with the opposite danger of unhealthy over-scrupulosity.

> It would be also well considered, whether he that by his over nice scrupulosity runneth all these hazards be not, in some measure, guilty of his own undoing, of deserting his station, and of betraying his flock; and do not thereby lose much of that comfort which a Christian Confessor may take in his sufferings, when they are laid upon him by the hand of God, and not pulled upon himself with his own hands.[36]

Sanderson's conception of the problem in terms of various states of conscience does not alone determine the uniqueness of his case, however, and Herbert Thorndike's commentary on Sanderson's case provides a helpful basis of comparison for isolating the distinctive features of the casuistical treatment. The refutation of Sanderson's argument by an Anglican colleague supplies us with a valuable commentary on the subject from a very different perspective, but we must bear in mind the fact that the two discussions were written in different circumstances and for different purposes and so are not comparable in every way. Robert Sanderson produced a detailed case of conscience, which was prepared for circulation if not for publication. Herbert Thorndike wrote a short personal letter to a friend who shared his opinion. In spite of the limited scope of Thorndike's letter, however, it succinctly presents the High Church point of view and offers a sharp contrast to Sanderson's case in method of analysis, form of presentation, and resolution of the problem.

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[36] Sanderson, Works, V, 48.

Thorndike, like Sanderson, was a distinguished clergyman loyal to the king and to the Church of England. The two men had lost positions at Cambridge and Oxford respectively through Puritan hostility and both were to be active in the remaking of the church at the Restoration, taking part in the fruitless negotiations with the Puritans at the Savoy Conference. They held many common assumptions about the nature and functions of the church. Both wanted a unified national church and thought a degree of uniformity enforced by ecclesiastical authority necessary. Neither sympathized with Puritan attacks on traditional authority nor with the new

Puritan ideal of unwritten, spontaneous forms of divine worship. But they disagreed strongly on the application of these principles to this particular case.

Thorndike's comments are contained in a letter to Gilbert Sheldon. Apparently Sheldon had given him a copy of Sanderson's case, and he returned it with his opinion. The letter consists of two long paragraphs, of which the first discusses Sanderson's practice and the second analyzes his justification for it. Thorndike begins by summarizing Sanderson's conclusion: "he hath several parts of [the] Service of his own making and though mostly formed out of the Common Prayer Book, yet certainly varied from thence." He flatly condemns Sanderson's behavior on the grounds that he has disobeyed the standing directive of the Church concerning the order of service. He does not consider the details of Sanderson's exposition of the forms he used at various times, because from his point of view the intrinsic merit of the service put together is irrelevant. The only particular he mentions is the prayer before the sermon, which he condones on the grounds that "Custom and former practice, if not the Canon itself, allowed [it] as lawful."[37]

His answers to the dilemma of Anglican ministers faced with a hostile power which prevents them from obeying the law of the Church is based on a distinction between positive and negative laws. A positive law commands; a negative law forbids some action. Since no law can bind the conscience beyond one's power to fulfill it, one obeys a positive commandment by fulfilling its precepts to the best of his ability. He always has the power, however, to refrain from a forbidden action and to suffer the consequences. According to Thorndike, Sanderson has disobeyed the negative law which forbids using any liturgy not prescribed by The Book of Common Prayer. He does not condemn omitting parts of the established liturgy, but he does deplore introducing new elements. The hostile government may prevent the use of parts of the service, but nothing can force the inclusion of unauthorized material, because "though force may make me omit what I am commanded, yet it cannot make me do what I am forbidden." The alternative solution which he offers is that "he that prudently judging and discerning that he shall not be permitted to read the whole Liturgy at this time [and uses] as much of it as he can at present (and withal nothing else)" is innocent of disobedience. Anyone who "introduceth any new form," however, is guilty of disobedience and of schism as well, for he has departed from the liturgy in order to comply with the Directory.[38]

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[37] The MS of Thorndike's letter is in the Tanner Papers, Bodleian Library, Vol. liii. f^{o}. 31. Jacobson prints it following the text of Sanderson's case in Works, V, 58-59.

The second part of the letter to Sheldon is a refutation of the "reason" Sanderson gives for his practice. Thorndike briefly makes the charges of schism and scandal, but, like Sanderson, he regards them as subsidiary objections. He concentrates on the essential issue, the obligation of the law, and goes immediately to the pivotal point of Sanderson's argument, "his first Rule of considering in all Laws the ultimate intention of your Lawgiver to procure the public good." Thorndike does not attempt to attack Sanderson's basic assumptions or to discover flaws in his logic. Instead, he traces the implications of Sanderson's position and in them an inherent individualism incompatible with stable authority. He acknowledges that the lawgiver may at times dispense with a law which does not serve his purpose of promoting the public welfare, but, he argues, if any individual may judge whether the public good is served by obedience to a given law, anarchy results.

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[38] Sanderson, Works, V, 58, 59.

> Then farewell all subjection any further than either the hypocrite will judge, i.e. pretend to judge, or the seducible weak person be able to judge, or the more judicious, upon what appears to him, (wherein he also may much err, if he see not all that the Lawgiver sees,) shall actually judge, to be for the public good; and that will in the effect prove very little.[39]

Perhaps the most salient characteristic of Thorndike's discussion is its singleness of purpose and rigorous adherence to one basic principle. Against the complexity of Sanderson's attempt to balance moral absolutes, the welfare of church and state, and the demands of personal prudence, Thorndike's complete devotion to the principle of ecclesiastical authority is striking. His purpose is to maintain the validity of the power of the church during a time of persecution and to preserve obedience to that authority regardless of circumstances. The only exception he admits is a slight modification of the established canon law by tradition. In contrast, Sanderson works on the assumption that circumstances directly affect the rightness of any given action. What is right under one set of circumstances may be wrong when different internal and external conditions exist. The moral problem whichhe treats arose directly from a change in external circumstances. Moreover, the problem of the relationship between men loyal to the old order and their new rulers continually altered in form since the treatment of Anglicans varied considerably during the unsettled period of the Interregnum. In the early years of its supremacy, for example, the Long Parliament severely persecuted both Anglicans and Sectarians, but Cromwell genuinely tried to tolerate religious differences which did not threaten the authority of the state. Thus the severity of Anglican persecution decreased between 1650 and 1655.[40] Because such fluctuations in public policy were inevitably multiplied at the local level by the course of events and the temperaments of officials, Sanderson needs to show his procedure in several sets of circumstances in order to describe his practice in dealing with civil authority. He presents essentially three separate cases.

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[39] Sanderson, Works, V, 59.

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[40] See Bosher, pp. 9-13.

Thorndike presumably approves his solution to the first case, that is, his disobedience of Parliament when the new law was first promulgated. Of the second situation he presents, the disruption of the church service by hostile soldiers and the destruction of the Prayer Book, Thorndike concludes that such "present force" can excuse the failure to perform all of one's duty but cannot justify the commission of the unlawful act of varying the liturgy. The last set of circumstances which Sanderson considers is the immediate possibility of sequestration for adherence to the letter of the canon law. Whereas Sanderson anticipates and weighs both the personal suffering of the deprived clergy and the danger of abandoning the "sheep of Christ, that lately were under the hands of faithful Shepherds, into the custody of ravening wolves," Thorndike dismisses these considerations as "the lower sort of force, threats of turning out, I see not how there is place for that."[41] Thorndike acknowledges in passing the demands of prudence when he predicts that the method which he advocates would be just as "safe" as Sanderson's practice, but the central point of his discussion is that one must consider "not his own but the Church's interest" and that the Church is best served by following the letter of the law as closely as possible and suffering whatever consequences follow.

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[41] Sanderson, Works, V, 58.

Even more basic than their conflict about the role of circumstances is the disagreement between the two theologians over the relationship between the individual and the law. Thorndike maintains that the duty of the individual is to render obedience to lawful authority. He considers particular people and states of conscience only in order to dismiss the distinctions. The hypocritical, the weak, and the judicious will all undermine the principle of order if allowed to judge for themselves what laws are for the public good "because what shall by any of these be on these grounds regularly done, would have been done probably if it had never been commanded, and so hath little of obedience."[42] Obedience is best demonstrated by subjection to inconvenient or even injurious laws. Thorndike, then, devaluates the intention of both the lawgiver and the man with the case of conscience as well as the consequences of the law on the nation and on the individual.

For Sanderson, on the other hand, the conscience of the individual Christian is the final authority and the right and peaceful conscience is the goal. In addition to the question of ecclesiastical legality which concerns his critic he is interested in the psychological, economic, and moral circumstances of the problem. Writing as a casuist, he attempts not only to clarify the moral issues involved in the controversy over Common Prayer, but also to investigate the possible effects of various courses of action on individual human souls. He wants to show men who are perplexed by the question how to bring peace to their troubled consciences. The comprehensiveness of his goal requires that he treat the problem as inclusively as possible. He must exhibit the basic moral principles inherent in the problem, while allowing for the uniqueness of every particular manifestation of it. He must consider the obligations of the conscience to political and moral as well as to ecclesiastical law and investigate the individual's duty to his family, his country, and his God, as well as to his church. At the same time, he must resolve this case in such a way that he demonstrates a sound casuistical method so that men can resolve similar cases for themselves.

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[42] Sanderson, Works, V, 58.

Thus, Sanderson's casuistical treatment of the problem of the liturgy led him to a decision very different from that reached by many of his colleagues. The crux of "The Case of the Use of the Liturgy" is the relationship between the individual Christian and ecclesiastical law, and Thorndike charges that Sanderson's treatment of the obligations of church law in this case of conscience is inconsistent with his previous writing on the subject and subversive of all authority. He mentions in particular Sanderson's defense of the duty of obedience in his analysis of the Puritan misuse of the maxim from Cicero's *De Legibus*, *Salus Populi suprema Lex*, in the lectures on the obligations of the conscience. Thorndike implies that Sanderson, like the celebrated Vicar of Bray, had reversed his position from self-interest or cowardice. A closer look, therefore, at Sanderson's conception of the individual's relationship to moral law and the theoretical basis of his casuistry should be helpful in understanding his procedure in the cases of conscience.

IV

The Theoretical Basis of Sanderson's Casuistical Method

Since, as Sanderson explains in the Oxford lectures on the obligations of the conscience, man's personal conscience is his final guide to virtuous action and since he is expressly forbidden to subject his conscience to any human authority, his ability to function morally depends largely on his understanding of the operation of the conscience. For Robert Sanderson, the operation of the conscience is essentially the discovery of the proper relationship among various kinds of knowledge. Conscience is, he says, well-named, because "science" plus "con" suggests the idea of man knowing many things, and this interpretation of the etymology is appropriate becaue the conscience "addeth Science unto Science, that is, the universal knowledge or the knowledge of Law and Right, to particular knowledge, or the knowledge of the fact by applying one unto the other."[43] Right action, then, depends on knowledge as well as good intentions. Thomas Barlow reports that Sanderson, when asked to specify the kind of training necessary for a casuist, recommended two fields of study, in addition to Greek, Hebrew, and Latin and a "sufficient knowledge of the arts and sciences." According to Barlow's report, Sanderson believed that the first essential is an understanding of the nature of human action.

> ...every Case of Conscience being only this--'Is this action good or bad? may I do it, or may I not?--he who in thesi knows not how and whence human actions become morally good and evil, never can in hypothesi rationally and certainly determine whether this or that particular action be so....

The second requisite for a casuist is a:

> convenient knowledge of the nature and obligation of laws in general.... For every case of Conscience being only this--'Is this lawful for me, or is it not?' ...he who in thesi knows not the nature and obligations of laws, never

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[43] Sanderson, Lectures, p. 7.

> can be a good casuist, or rationally assure himself or others of the lawfulness or unlawfulness of any action in particular.[44]

Human actions can be considered in two ways, "as they are spiritual, that is to say, whether they are done out of Charity, and directed to a supernatural end" and "as they are moral, that is, whether they be good or evil, lawfull or unlawfull, free or necessary."[45] Spiritual actions are the province of faith, but casuistry is the study of the morality of action. The distinction is not absolute, of course, for the object of conscience is particular moral acts, "not only to oblige [men] to the performance of their duties, as they are men, but to believe the mysteries of Faith revealed in the Word of God as they are Christians."[46] The distinction is helpful, however, for it clarifies the way in which man achieves virtue. Human nature, like the rest of nature, is corrupt. "If there be any good thing in any man it is all from grace. Nature is all naught, even that which seemeth to have the pre-eminence in nature is stark naught."[47] Nevertheless, virtue is appropriate to man's nature.

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[44] Sanderson, Works, VI, 358-359.

[45] Sanderson, Lectures, p. 221.

[46] Sanderson, Lectures, p. 28.

[47] Sanderson, Sermons, I, 528.

> As God gave to brute & inanimate creatures a natural instinct...so a certain natural law is given unto man, and proportioned to his nature, as he is a reasonable Creature.... And this law doth incite him to the performance of those things which are agreeable to his nature, as he is a man, that is to say, a living Creature, indued with reason, or to live according to reason.[48]

Thus, man can achieve salvation only through grace, but he is gifted with natural law and reason as well as divine revelation to guide his conduct. He must submit his will to God's. The will of God is revealed to men in three different ways: through "the light innate, the light inferred, and the light acquired; or the light of nature, the light of Scripture, and the light of Doctrine." The light of nature which comes from the natural law is the knowledge of the divine will with which man is born. This natural light has been obscured in man since the fall, but "in the common wrack it hath come off more unhurt than many other of the Faculties." It consists of many "divers practical principles which notwithstanding are reduced to one first and universal Law...viz. Good is to be done. Evil is to be avoyded."[49] The light inferred is scripture, the divinely inspired Word of God. The light acquired is the "Discourse of Reason and Authority."[50]

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[48] Sanderson, Lectures, p. 157.

[49] Sanderson, Lectures, pp. 132-133.

Man acts virtuously, then, when he obeys the law of God, however it is revealed. The proper act of conscience, according to Sanderson, is "the application of the light which is in the mind, by the discourse of reason to particular acts."[51] Man sins when he disobeys the law of God in any way: "Good proceeds from an upright and an entire cause, but evil from any defect."[52] An action may violate the law of God in any of three ways: "No action can be justly said to be morally good, unless the Matter [is] lawful, the intention right, and the Circumstances due."[53] Thus, evil in the intention, the circumstances, or the object renders the entire action sinful.

The second area of knowledge necessary for solving cases of conscience is the nature of law. Since sin is "an aberration or a receding from that Rule of Law which we ought to follow,"man needs to understand which laws have a valid claim on him and how they operate.[54] Just as man

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[50] Sanderson, Lectures, p. 144.

[51] Sanderson, Lectures, p. 29.

[52] Sanderson, Lectures, p. 46. Sanderson cites St. Augustine when he uses this axiom in his sermons. Sermons by Robert Sanderson, ed. R. Montgomery (London, 1841), I, 192.

[53] Sanderson, Lectures, p. 48.

[54] Sanderson, Lectures, p. 153.

man cannot rely on divine grace to make his decisions for him, scripture is an inadequate rule for the conscience to follow. Scripture alone sets forth the fundamentals of faith and is an adequate guide for "what is necessary for a Christian to believe and practice unto the salvation of the soul," but it is not a complete guide for "what is lawfull for a pious and prudent man to do lawfully, or to leave undone, at such a time or in such a place."[55] If it were the sole authority for guiding human behavior, Sanderson points out, logically its authority should extend to the most minute details "insomuch that it is not lawful to take up a straw, unlesse it be by the prescribed law of God."[56] Scripture contains fundamental principles of virtuous conduct rather than detailed legislation, and the exercise of reason is necessary to understand and to apply them. So scripture must be supplemented. In De Obligatione Conscientiae Sanderson enumerates the laws which rule the conscience as the commandments of God, the laws of men, vows or promises, and considerations of scandal. Divine commandments always and absolutely bind; the others bind relatively.

Sanderson's analysis of the principles which should govern man's conduct is essentially the traditional Anglican view of the law expounded so eloquently by Richard Hooker. According to this scheme, ecclesiastical law is a species of human law and has a valid claim on men's consciences. Although the divine law revealed in scripture is a perfect exposition of the spiritual truths which lead men to salvation, man-made laws are necessary for the governing of the visible church that exists in the world as a society of men.[57] Although Sanderson and his opponent Thorndike share this idea of church government, to many English Christians the demand for compliance with admittedly man-made laws, especially the insistence on specific forms of worship sanctioned merely by human authority and tradition, was a superstitious and blasphemous substitution of human whim for the divine word. Puritans repeatedly questioned the Anglican enforcement of uniformity in matters without scriptural precedent, and Sanderson, like Hooker, frequently championed the cause of church authority against its critics. In De Obligatione Conscientiae, Sanderson is characteristically the voice of the calm, unruffled academician detached from the political fray, but his remarks are clearly pointed at Puritan nonconformity.

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[55] Sanderson, Lectures, p. 125.

[56] Sanderson, Lectures, p. 229. Sanderson seems to have found this metaphor in Hooker, Of the Laws of Ecclesiastical Polity, II, Introduction: "For whereas God hath left sundry kinds of laws unto men, and by all those laws the actions of men are in some sort directed; they [the Puritans] hold that one only law, the Scripture, must be the rule to direct in all things, even so far as to the taking up of a rush or straw."

The question, of course, is not merely the convenience or expedience of civil and ecclesiastical authority, but whether or not man is morally bound, under penalty of sin, to obey human laws. In the fifth of the lectures on the obligations of the conscience, Sanderson directly confronts the problem of whether and to what extent human laws oblige man. He insists that only God has direct authority over the conscience: "'You are bought with a price, be you not made the servants of men' (I Cor.vii.23), that is, do not submit your Conscience to be governed by the Authority of any man." Nevertheless, man is also commanded: "...you must be subject, not because of anger only, but for conscience sake' (Rom.xiii.5)."[58] Sanderson resolves this paradox by concluding that while the ultimate authority over the conscience is the will of God, human law can bind the conscience indirectly through the divine commandments to obey one's superiors. Since the obligatory power of human authority derives from divine commandments, man-made laws, even those concerning actions neither good nor evil in themselves, morally bind the consciences of subjects to obedience. Violations of these laws are indirectly violations of the laws of God. Since "sin is nothing else than an aberration or a receding from the Rule of Law which we ought to follow" man disobeys lawful authority "under penalty of mortal sin."[59]

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[57] Richard Hooker, Of the Laws of Ecclesiastical Polity, I, x, 11; III, x, 7; III, x l, 14.

Because God's commandments delegating authority to some men and requiring obedience of others are the source of human authority, the power to bind men's consciences resides not in man-made laws themselves but in the office of the lawmaker. A human law is only the "efficient cause" of the obligation induced by the will and power of the magistrate; "the Law doth oblige terminatively, that is, as a Term of obligation."[60] This distinction between the law itself and as an expression of the will of a rightful superior is essential to Sanderson's defense of human law. Christian liberty guarantees men freedom of conscience, "which Liberty no Human Power can or may infringe."[61] No human law, therefore, can turn an action which God has left indifferent, that is, neither required nor forbidden, into an action in itself good or evil. No man can lay an obligation on the conscience where God has left it free. Laws may be regarded, however, in two ways: "either formally for the Act itself of giving precepts or materially for the things precepted."[62] If a lawmaker were to impose a law on an indifferent action and to attempt to oblige his subjects' consciences from the law itself "taken materially," he would be infringing upon their Christian liberty. Since he is impowered to govern, however, he may impose an obligation "formally" from his own legitimate authority without threatening the liberty of any man's conscience. Obedience to lawful authority is man's moral duty, and obeying the laws made by that authority is the form that obedience takes.

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[58] Sanderson, Lectures, p. 147.

[59] Sanderson, Lectures, p. 153.

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[60] Sanderson, Lectures, p. 153.

[61] Sanderson, Lectures, p. 200.

[62] Sanderson, Lectures, p. 200.

Questions about the applicability of a general rule or principle to a particular case are the province of casuistry. Thus the consequences of this rationale for human authority which are relevant to the case of the liturgy are the exceptions to man's duty to obey man-made laws. Since, according to Sanderson's scheme, the effective force of human law derives from diving law, no human command can supersede God's will. Thus, unjust laws exert no force on men's consciences. A law can be unjust, however, in several ways, and only certain kinds of injustice nullify the duty of obedience. Sanderson discusses exceptions to the basic rule by examining laws according to their efficient, material, formal, and final causes.

In the eighth of the lectures on conscience, he answers the doubts or questions which relate to the law's formal cause. These generally concern the extent of the subject's knowledge of his superior's commands. Since no one can obey a law he never heard of, adequate promulgation is so necessary that without it a law is not binding. Realizing that customs vary from country to country, Sanderson does not attempt to stipulate specifically the criteria for adequate publication. He does, however, demand unequivocally that the lawmaker solemnly propound his will as law. The law binds by virtue of the lawmaker's will and intention, but his secret intention does not constitute a law. Superiors have both a public and a private will; only their public will has legal force. This distinction, as Sanderson caustically notes, was suggested but misused "in the midst of these late tumults" by "the unhappy capriciousness of some wits."[63] The form in which the public will and intention of a lawful superior exists is a solemnly proclaimed and duly publicized law.

The rest of this lecture on form deals with distinctions between culpable and invincible ignorance and with problems concerning penal law which are irrelevant to the case of the liturgy. It is noteworthy, though, that in many of these cases Sanderson appeals to the idea of the lawgiver's intention. For example, he discusses whether and when a command is fulfilled by satisfaction of the penalty it imposes for transgression and decides that it depends upon the intention of the lawmaker. To the question of how to discover this intention, he answers:

> ...a mathematical certitude, which is manifest by Demonstration, and impossible to be false, is in vain to be expected in morals, by reason of the infinite variety of circumstances, and uncertainty of human affairs, nevertheless a certain logical certitude may oftentimes be had of the Intention of the Law-maker, which is to be collected from the words of the Law it self, from which his Intention may so perspicuously appear, that there needeth not any further evidence.[64]

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[63] Sanderson, Lectures, p. 277.

[64] Sanderson, Lectures, pp. 293-294.

Thus he assumes that the form of the law is the means by which a superior makes his will known to his subject. He does not discuss formal distinctions between positive and negative laws. His emphasis is on the responsibility of the legislator to make his commands widely and easily known and on the responsibility of the subject to seek to know his superior's intention, without negligence or laziness.

The direct or efficient cause of human law is the lawmaker. Clearly, no law made by an individual or a government without lawful authority can impose a moral duty, for the power to bind the conscience arises not from the law but from the lawgiver. Such a principle is inevitable in any scheme which finds moral as well as practical sanction for political power, although, as Sanderson recognizes, its application is neither simple nor obvious. His discussion of the problem in the lecture exhibits, in fact, the same flexibility he reports of his own practice in the case on the liturgy. The power of the sword alone does not constitute lawful authority with a right to demand obedience under penalty of sin. Thus, in the case on the liturgy Sanderson says that he violated the parliamentary law forbidding the use of the Prayer Book as long as he could. From his point of view, in this situation the illegitimacy of the _de facto_ ruler was clear. He realizes, however, that history offers very few cases of rulers with a clear and unquestioned right to their power through heredity or election and that advising disobedience to all laws made by authority of dubious title would be to counsel anarchy. He suggests that in most cases citizens should assume that the *de facto* ruler is the lawful one, unless someone else clearly has a stronger claim. When the rightful ruler is doubtful, as in an involved dynastic dispute, he recommends that the ordinary citizen obey the present power. Even in cases where the present power is clearly usurped Sanderson contends that citizens may, and sometimes must, obey the ruling power. He lists three reasons for this assertion. First, prudence, a man's duty to protect his life, liberty, and property, may necessitate accommodation with an illegitimate government as long as it entails nothing sinful. Second, the citizen has some obligation to any government under whose protection he lives. Third, since the purpose of civil government is the tranquillity and security of human society, the behavior of every citizen must be conducive to that end and should not interfere with even an unlawful power's attempt to defend the country against foreign enemies, to administer justice, and to secure the economic life of the country. To the objection that any obedience to a usurper robs the true ruler of his right, Sanderson answers that the subjects who comply for the sake of public peace could not displease a true prince "because being the true Father of his Country he is to be believed to love it sincerely" and thus prefer the safety of his people to his own right.[65]

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[65] Sanderson, *Lectures*, p. 174.

Unfortunately, even a true prince may enact an unjust law, and Sanderson finds even more subtle distinctions necessary in order to explore this situation. A law may be unjust because the motive of its author is base, because its effect is unfair under the given conditions, or because its matter violates a higher law. Only injustice arising from the material cause, the precepts of the law itself, frees the subject. If, for example, a tyrannical king unjustly demands inordinately high taxes, the king is unjust and the law is unfair, but the subject must obey. If, however, a ruler should command an act contrary to the law of God, the subject need not, indeed must not, obey. Such a law does not, however, free man from his obligation to his lawful superiors. He must continue to submit to the power of his superior and patiently endure whatever punishment is inflicted, and he must bear the worst of sufferings rather than prefer man's law to God's. Thus, a human law that is unjust in the sense that it contradicts a higher moral law has no moral force, even if it is made for the good of the country. Sanderson dismisses contemptuously the disciples of Machiavelli who condone unjust laws which further the public profit. The purpose of government is not power but "the preservation of the people in Tranquillity, and Peace, with all Godlinesse and Honesty."[66]

Another way in which the matter of the law can render it impotent is for it to require something absolutely impossible. Such a law is "tyrannical, and by right null and obligeth no man in Conscience."[67] Should a law be impossible for some but not for others, it obliges only those for whom it is possible. The others must do all within their power to obey it, but can do no more. The last and, for the case of conscience, the crucial way in which the injustice in the matter of a law may nullify a man's duty is for its precepts to be "not impossible, but very grievous, and very burthensome, and which the subject cannot perform without great inconvenience, losse, danger of life, and the ruine of his whole Estate."[68]

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[66] Sanderson, Lectures, pp. 208-209.

As Thorndike saw, Sanderson's opinion in the case on the use of the liturgy rests on the concept of the ultimate intention of the law as well as on the precept of the inviolability of the conscience. Here particularly Thorndike found the casuist's position inconsistent and significantly reminiscent of Puritan nonconformity:

> And truly Dr. Sanderson read lectures to vindicate the Maxim of *Salus Populi suprema Lex* from modern abuses; yet I cannot see how they, that forsaking the known laws appealed to the Fundamentals upon the force of the Maxim, can be said to have offended, if the general intention of the Law by every particular man may be taken in to dispense with his obedience. And sure to this sense it was that this Maxim was at the beginning of this War so ordinarily applied.[69]

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[67] Sanderson, *Lectures*, p. 202. In this connection Sanderson directs us also to his treatise on oaths, *De Juramenti Promissorii Obligatione* (1647), *Works*, Vol. IV,

[68] Sanderson, *Lectures*, pp. 203-204.

[69] Sanderson, *Works*, V, 59.

But in the lectures too Sanderson distinguishes between the private intention of the lawgiver which, be it the common good or private ambition and avarice, cannot affect the justness and obligatory power of a law, and the intention of the law itself. The ultimate intention or final cause of any just human law is "the good of the Commonalty, or the publick peace and tranquillity."[70] The efforts of legislators never produce the perfectly just and peaceful commonwealth, however, and caution and conservatism guide Sanderson through the labyrinthine perplexities created by the discrepancy between the actual and the ideal. Princes must do their utmost to encourage virtue and discourage sin, but their power extends only to outward acts, not to inward states. They may lawfully demand every virtuous action, but in practice such rigor is impossible. In this imperfect world Sanderson sees little use even for dreams of a "Platonick or Eutopian Commonwealth; we are to think we have done well enough, if we stick not too deep in the mire." The individual citizen is in no position to judge the common good and so should comply even with a law which seems detrimental to society as a whole. However suspicious of the ultimate effect of a law, man must obey if obedience is not sinful "because every man ought to be careful and diligent in the performance of that which belongs to his own part, and not too scrupulous of what concerns another."[71] Pernicious laws should be changed, but only with great discretion. Society can better endure a great deal of inconvenience than the confusion of extensive or rapid change.

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[70] Sanderson, Lectures, p. 310.

Sanderson anticipates that the major doubts raised by his recommendations for acquiescence with an imperfect legal status quo will come from a misunderstanding of the maxim "the safety of the people is the supreme law." He protests that the maxim is consistently misused by reformers to the impairment of all law and order. Nowhere else in these sane and moderate academic lectures does the turbulence of contemporary English public life make its presence felt so clearly. Sanderson's indignation at the perversion of this venerable aphorism is unbounded as he recalls eloquently the suffering and horror of civil war which has accompanied what he sees as irresponsible and disastrous revisions in English government and religion. He discusses the problem in lecture nine and departs from the original plan of the series in order to devote the last lecture to further clarification of the aphorism.

He admits that the phrase "the safety of the people is the supreme law" is ambiguous and can be construed to mean either that the safety of the people resides in the supremacy of the law or that the laws must give way to the safety of the people. He has no quarrel with either interpretation.

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[71] Sanderson, Lectures, pp. 320, 322.

Ordinarily the peace and tranquillity of the commonwealth depend on the strict observance of the laws of the land, yet the necessary imperfection of human laws means that strict legal justice sometimes must give way to equity. The trouble lies in equivocation on the word "people." "People" may mean either the commonwealth as a whole, including both king and subjects, or subjects, as distinct from their rulers. In the first, not the second sense, the safety of the people is the supreme law, Sanderson maintains. A prince may waive the strict observance of a particular law for the good of the people as a whole, but the reformers distort this maxim when they use it to advocate that the liberty of the people take precedence over all law and regal authority.

Throughout the discussion, of course, Sanderson assumes the sacredness of the majesty of the king and the superiority of monarchy over democracy. He perceives clearly that the difference is deeper than a verbal quibble, and he distrusts profoundly any attempt to establish perfect social and political justice through radical alterations of human institutions. There will always be miscarriages of justice, but the public safety is not endangered whenever one citizen suffers unjustly. Each man's responsibility is to live virtuously and to perfect his relationship with his God in an imperfect world, but not create a new Jerusalem in England.

In spite of his horror at the extreme implications of individualism, however, Sanderson does not deny completely the individual's prerogative to act outside the letter of the law. Ordinarily a man must do his own duty without questioning his ruler's wisdom. But in certain eventualities, such as the defense of the Prince's rights and the subjects' liberties against a common enemy, a man may dispense with his obedience to a particular law in the interests of the common safety if the ruler's consent is either obtained expressly or can reasonably by assumed. Since the safety of the people, the Prince and his subjects, is the supreme law, all other laws must yield to it. No man may place his private interests above those of his country or attempt to deprive his monarch of his traditional rights, but each man, king and commoner, should "have a greater regard of the common safety, which is the supreme law, and the end of all laws, than to be fearful to prejudice any particular laws, which were themselves made to be subservient only to the publick safety."[72]

Every man, then, obeys those above him in the familial, ecclesiastical, and political hierarchies because of moral as well as practical allegiances. A law need not require an act of virtue or be "just positively" in order to bind the conscience; it is enough that it is "just negatively," demanding nothing unjust or shameful.[73] Since human law can justly command nothing contrary to divine law and cannot alter the obligations which God has commanded, the most appropriate sphere for human law is the area of indifferent things. Authority may turn acts otherwise neutral into positive acts of virtuous obedience. The duty of obedience, however, can never require an unjust action. A law may be unjust because it is made by someone without lawful power, because it does not promote the public good, because it applies to subjects in unequal proportion, or because it is incompatible with a higher law and universal justice. Only the last form of injustice allows man to disobey his superiors. He may, if he wishes, obey an unlawful power. Since it is not his right to judge what laws will be for the public good, he must obey a lawful power even when he feels that a law is ill-advised and unfair, except in unusual circumstances when the safety of the commonwealth is threatened and he can assume that if the lawmaker were present he would grant dispensation. When any particular law conflicts with a higher law, however, the higher law is to be preferred. The law of God always takes precedence over the law of man. When obedience entails sin, disobedience is required.

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[72] Sanderson, Lectures, p. 332.

[73] Sanderson, Lectures, p. 214.

Throughout his discussion of the law Sanderson maintains both the moral imperatives of the law and the supremacy of the individual conscience. In these lectures he focuses most often on the duty of obedience. To obey is usually safer than to disobey, since "the inbred depravation of the Heart of Man" makes him prone to sin, and "the Wisdom of the flesh, & the Craft of the old Serpent" are always ready with excuses for disobedience.[74] But though he generally advises compliance with authority, Sanderson is careful never to close the door to the prerogatives of individual moral sense. Paul's admonition with respect to teachers may, he says, as aptly be applied to the commands of superiors: "Try all things, and keep that which is good."[75]

In the Oxford Reasons, Sanderson had condemned the Covenant not because it was commanded by an unjust power but because the command itself was unlawful and represented a direct violation of the subject's duty to his king. In the case on the Engagement, Sanderson decided, on the basis of the available evidence, that the proposed action was innocent but warned that evil intentions would render it sinful for any man not completely convinced of its rightness. In the case on the liturgy, Sanderson again assumes that whether or not the proposed action was commanded by an unjust authority is irrelevant; he concentrates instead on the relation of the action to lawful authority. This time the proposed action, modifying the established liturgy, is essential to the well-being of the individual but is also clearly a violation of a command by a lawful authority. In this situation Sanderson examines the action in relation to the principles governing exceptions to the law and justifies freedom of individual action outside of human law by appealing to a higher law. The experience of being outside of the establishment undoubtedly had its effect on Sanderson, and his decision in the case of conscience on the liturgy reflects an attitude different from that in the original lectures on the conscience. His focus changes; he may even be said to trim his sails in compliance with his new perspective, but he does not come about completely. The theoretical justification for Sanderson's resolution of the case on the problem of the liturgy is in the lectures on the conscience. To assume, moreover, that all countenancing of disobedience comes to the same thing is to miss the subtlety of Sanderson's mind and the fineness of his moral sense.

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[74] Sanderson, Lectures, p. 217.

[75] Sanderson, Lectures, p. 211.

V

The Casuistical Method as Form

In De Obligations Sanderson presents the moral theology assumed by his casuistry. His understanding of the nature of the conscience, of human nature, and of law leads him to see the casuist's task as the discovery of the divine law relevant to a certain problem and the precise definition of the Christian's duty in that particular situation. In his cases of conscience Sanderson demonstrates these principles in action.

Since the conscience is primarily a rational faculty, it relates universal truths of divine law to particular human actions by means of logic.[76] In fact, according to Sanderson, the process of casuistry may be reduced to two interlocking syllogisms, which he illustrates with the following example:

> Every thing that is unjust is to be eschewed.
> Every Theft is unjust, therefore
> Every Theft is to be eschewed.
>
> Let this be the first syllogism, the first proposition whereof is known of it self by the light of Nature: Reason doth prove the Minor and the Conscience doth bring in the conclusion; which conclusion it presently takes up to be the beginning of the following syllogism, and applying it to some particular Fact, according as the Will shall propound unto it, it argues in this manner.
>
> All Theft is to be eschewed.
> This which is now propounded to me to be
> done is Theft, therefore
> It is to be eschewed.
>
> And the Names of the Vice being changed it proceedeth in this manner.[77]

The difficulty in following this procedure arises, of course, in the formulation of the minor premises. In order to set up the first syllogism, the casuist must select the appropriate moral law. In order to draw a conclusion from the second syllogism, he must decide whether or not the proposed action violates that law.

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[76] Sanderson was Reader in Logic at Oxford before the civil war. His lectures, published as Logicae Artis Compendium, went through eleven editions and were the standard work on logic at Oxford for many years. See Lewis, pp. 7-8.

[77] Sanderson, Lectures, p. 14.

In "The Case of the Use of the Liturgy" Sanderson examines a proposed action in order to determine whether it is good or evil, lawful or unlawful. He considers it in relation to the laws forbidding disobedience, scandal, and schism. He assumes that each is evil and to be avoided and focuses on the second of his two syllogisms, whether or not the modification of the liturgy set forth in The Book of Common Prayer is an instance of these sins. To be lawful the action of modifying the Prayer Book must be without evil in matter, intention, and circumstance. In "The Case on the Engagement" Sanderson's solution to the problem had depended largely on the individual intention and on an analysis of such relevant circumstances as the usual procedures of disputed governments, debates in Parliament, and anticipated consequences. In "The Case of the Liturgy," since a man's wish to retain his living for the good of his parishioners, his family, and himself does not in itself constitute a sin, Sanderson assumes innocence of intention in the clergyman for whom this is a problem and concentrates on the matter and attendant circumstances of the proposed action. His decision that altering the liturgy is neither disobedient, scandalous, nor schismatical depends on his opinion that the operation of ecclesiastical law is modified by man's understanding of its ultimate intention and by the circumstances surrounding its application. He respects law and order, but feels that without some appeal from the accidental hardships inflicted by particular laws "Justice would be turned into gall and wormwood."[78] The lawgiver must always be assumed to intend the good of the people and can change or suspend laws to achieve that end. When a law harms instead of benefits the public that it was meant to serve and the maker of the law cannot be consulted, a man may assume the responsibility of ignoring it.

Since, in this case, the government of the ejected church had ceased to function effectively, Sanderson urged individual ministers to continue the Anglican tradition within the new establishement.[79] In De Obligatione he insists that man may disobey superiors only when obeying is sinful. In the case of the liturgy he assumes the tacit consent of ecclesiastical superiors, and so he does not, and politically could not, assert that unbending resistance to Parliament in all ecclesiastical affairs is sinful. He does, however, direct many shots in that direction. The man who martyrs himself for an unchanged Prayer Book would do well, he warns, to wonder whether he does not strengthen schism in England by abandoning his flock to unenlightened pastors and cause harm to godly men by encouraging them to multiply unnecessary scruples. Man should always choose the safest, most virtuous course, but that does not mean blind obedience. He must act positively to make his life acceptable to God and useful to his church and his country. Thorndike is probably correct in saying that there is more room for individual liberty in Sanderson's argument in this case than he would care to admit. Sanderson knows that men misuse freedom and believes that undermining ecclesiastical authority is evil, but he also believes that the chance must be taken.

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[78] Sanderson, Lectures, p. 27.

[79] Sanderson's subsequent treatment of dissenters at the Restoration shows clearly that he felt greater sympathy with persecuted Anglicans than with persecuted nonconformists, but his theological position with regard to uniformity of ritual does not alter. He condones nonconformity only when a superior's consent can be reasonably assumed. He never sanctions overt opposition to superiors. After 1660 he resorted to ejecting Puritan ministers only when they repeatedly refused to obey church authority concerning indifferent things. See George Lewis, Robert Sanderson (London, 1924), pp. 177-179.

In "The Case of the Use of the Liturgy" Sanderson, then, reformulated his attitude toward uniformity of worship in response to the ban on The Book of Common Prayer. Although his conception of the nature of ecclesiastical law remains basically unchanged, this treatment is unique among his many discussions of this complex problem. Without questioning the desirability of religious unity or of liturgical uniformity, he decides that the individual priest may alter the authorized forms of public worship in accordance with the exigencies of his own situation. Elsewhere Sanderson's concern is to defend against Puritan objections the right of the Church to demand obedience to her laws. In his sermons and lectures he explains the philosophic basis for the Anglican position, refutes Puritan critics, chastizes disobedience, and exhorts men to a pious submission to their church. In the case of conscience on the liturgy his purpose is to explain the responsibility of each man to determine his own moral course. Although the predicament of his church during the commonwealth leads him to re-examine basic ideas about the individual's relationship with the church, the mode of analysis which he uses in this case is representative of his usual procedure in dealing with cases of conscience. "The Case on the Use of the Liturgy" demonstrates both the modification of his ideas under the pressure of actual circumstances and the realization of his casuistical theory in a concrete problem.

This case, like the case on the Engagement, demonstrates the proper operation of the conscience by incorporating both an exposition of the basic theological assumptions relevant to a given area of human experience and a model of the ratiocinative process by which one can relate them to a specific problem. The form of this case is different from that of the earlier one, but it also embodies the characteristic casuistical concern for the individual conscience, the problematic nature of experience, and the details of a particular moral decision. In "The Case of the Engagement" Sanderson clarified the issues involved in the question and then led his reader from a consideration of universal principles to the particular action and then to the conscience of the individual agent. This time he structured his case on the fundamental tenet of casuistry that virtuous action must be consistent with the dictates of conscience. In the introductory paragraph, he summarizes the question posed and describes his scheme of organization and general conclusion: "I shall fully acquaint you with what my practice is, (whereunto if my judgment be not conformed, I am without all escape mine own condemner,) and upon what considerations I have, according to the variation of the times, varied myself therein."[80] He announces at the beginning, then, that he has adapted his practice to changing circumstances instead of following the liturgy of the Prayer Book exactly. He proceeds by describing his practice in detail and then by anticipating and answering doubts about the lawfulness of his practice.

So in this case Sanderson focuses on the individual at the beginning and uses his own experience as a model in three different sets of circumstances. It seems at least possible that the chronological inconsistency in his narration noted above on page 121 arose from his desire to include in this model of the relationship between a clergyman and the usurped authority several different sets of possible circumstances, regardless of their autobiographical authenticity.[81] If so, that change is additional evidence that Sanderson consciously designed his case to embody casuistical principles and procedures as well as to state and illustrate these rules. Be that as it may, he certainly provides three detailed models of an individual acting with a clear conscience in a perplexing situation.

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[80] Sanderson, Works, V, 37-38.

After his account of his own practice Sanderson shows how to deal with a doubtful conscience concerning this problem. In the earlier case he could follow clearly the syllogistic pattern he had outlined to Barlow, but in this case on the liturgy the process of discovery involves three such syllogisms. Sanderson's discussions of law, scandal, and schism are complicated and technical, but this complexity is organically related to his fundamental assumptions about human guilt and innocence. The inherent confusions of the fallen world are complicated by the disappearance of stable political and ecclesiastical order and traditional moral sanctions for action. In such a situation conscientious men had to be able to assess their actions in relation to every relevant moral criterion with all possible honesty and, equally important, be able to act decisively and without over-scrupulous misgivings. Godly discretion was imperative for salvation as well as for worldly survival.

The ingenuity of Sanderson's cases is a barrier to the twentieth-century reader. The modern reader is tempted to suspect, for example, that the elaborate scheme for classifying occurrences of scandal was designed primarily to provide the rationale for freedom of action supplied by the fourth category, actions which are lawful and necessary and require only that the actor take precautions to prevent scandal. Even should this suspicion be justified, however, Sanderson is not thereby convicted of cynical time-serving in his casuistry. His goal in any case of conscience is to find an answer to a practical problem by examining it in the context of Christian dogma. It is irrelevant to the integrity of his casuistry whether he began with the Bible and inferred from it a set of principles governing problems of scandal or whether he resolved the problem of scandal in terms of more general concepts of moral action and then found Biblical authority applicable to cases of scandal. The Bible is his basic authority, but he must rely on tradition and his own reason to analyze and synthesize the principles he finds there into a workable moral system. Sanderson's discussion of scandal in fact presents in heightened form the qualities inherent in all his cases. His style is lucid and his analysis painstakingly exhaustive. He moves methodically from theoretical moral philosophy to codified rules to live by. His standards are exacting without oversimplifying complex issues. He offers no excuse for avoiding an obvious duty nor does he give unqualified approval of any action which might cause scandal. He consistently maintains a precarious balance between a prescriptive legal code and the autonomous conscience.

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[81] It is also possible, of course, that the confusion arose because Sanderson was inventing the period of resistance to the Parliamentary ordinance in order to throw a more favorable light on his later compliance.

Sanderson's cases show that casuistry could be far more than the mechanical citation of authority. His recital in "The Case on the Liturgy" of his own practice and its theoretical basis demonstrates the necessary harmony between the two. His detailed exposition of the theological basis on his decision is not the trappings of frantic self-justification. A simple "yes" or "no" would not do, for his case is useful and interesting only in so far as it can survive the rational scrutiny of its readers. A casuist's approval or condemnation of a proposed action has no effect on its moral nature. A man may avoid sin only by discovering God's will through the exercise of right reason and acting in accordance with it. Thus Sanderson concludes his case:

> [I have] freely acquainted you both with my practice and judgment in the point proposed in your Friend's letter. How I shall be able to satisfy his or your judgment in what I have written, I know not. However, I have satisfied both your desire and his in writing, and shall rest,
>
> Your brother and Servant
> in the Lord,
> Robert Sanderson [82]

"The Case on the Engagement" and "The Case on the

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[82] Sanderson, Works, V, 57.

Liturgy" show Sanderson grappling with moral and practical problems issuing from the current ecclesiastical upheaval in a form distinctively different from the sermons and tracts of the period. In these cases he guides men toward right action rather than trying to settle a debate or to formulate church policy. His cases embody the decision-making process of individual men confronting moral dilemmas. He illuminates the world of experience through analysis of particular problems and shows not simply that right action is the result of a right conscience but that thought and action are inseparable. His final position is that unusual circumstances require unusual treatment and that man must carefully judge each case on its own merits and choose the greatest good among the possible alternatives. This, indeed, is the strength of his casuistry. His idea of casuistry is not merely showing men how to stay within the law: "when all is done, positive and practical divinity it is must bring us to heaven; that is it must poise our judgments, settle our consciences, direct our lives, mortify our corruptions, increase our graces, strengthen our comforts, save our souls."[83]

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[83] Sanderson, Sermons, I, 190.

Chapter IV

Thomas Barlow's "The Case of the Jews"

I

The Background of "The Case of the Jews"

Thomas Barlow was Robert Sanderson's professed admirer. He recommended Sanderson's casuistry to all young theologians, carefully recorded Sanderson's remarks on casuistry, and referred to the master in his own cases of conscience.[1] His cases resemble Sanderson's in form and method, but they also exhibit important differences. In fact, a close examination of Barlow's casuistry reveals both the extent to which Sanderson's approach was regarded as exemplary by seventeenth-century theologians and the latitude possible within the limits of the genre.

Barlow's casuistry, like Sanderson's, remained unpublished until after the Restoration. According to the bookseller's preface to the first edition in 1692, Barlow courageously circulated his cases freely, but his friends prevented their publication, "fearing some of them might prejudice his further Promotions in the Church in those Days."[2] His friends may well have feared that the liberality of Barlow's views would damage his career in the church of the Restoration; the bookseller, however, was unnecessarily charitable in his judgment that Barlow "had no regard" for possible political repercussions. Barlow seems to have mastered the art of self-preservation. He was, in fact, a notorious trimmer. Not only did he survive the purge of Oxford, which reduced Robert Sanderson and many other of his colleagues to penury, and retain his fellowship at Queen's College throughout the Protectorate, he also managed to further his career under the Protectorate, becoming in 1657 provost of his college. Even though he weathered the years of trouble more easily than many and managed to rise in the church during the period when most of his colleagues were having to use their wits to avoid losing all they had, he maintained his connections with episcopal leaders and adapted as easily to the Restoration as he had to the Commonwealth. He served on the committee responsible for restoring the ejected royalists and expelling Puritan appointees. In 1660 he received the Lady Margaret professorship upon the expulsion of Dr. Wilkinson and in 1675 became Bishop of Lincoln. Subsequently, his rabid anti-Catholicism and condemnation of the Catholic Duke of York in the wake of the Titus Oates scandal, his compliance with a severe policy toward non-conformists in 1684, his effusive endorsement of the new king and the declaration of toleration on the accession of James II, and his immediate and willing transfer of allegiance to William and Mary show that Barlow was not above adjusting his political and ecclesiastical views for his own professional advantage as the climate of opinion changed.[3]

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[1] Thomas Barlow, "Directions to a Young Divine for his Study of Divinity, and Choice of Books..." in The Genuine Remains of that Learned Prelate Dr. Thomas Barlow... (London, 1693), pp. 46-47, 336-337. Thomas Barlow, "The Case of the Jews" in Several Miscellaneous and Weighty Cases of Conscience (London, 1692), pp. 33-34.

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[2] Barlow, Cases, p. 2.

Barlow's well-known fickleness does not, however, minimize his importance as a casuist. His contemporaries admired him as a foremost casuist and a high-ranking and influential churchman. He was regarded as an expert on the controversy between Protestants and Roman Catholics and as a learned scholar and theologian. Robert Boyle valued his friendship and consulted him as a casuist.[4]

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[3] Dictionary of National Biography, ed. Leslie Stephen and Sidney Lee (London, 1908), I, 1149.

[4] Boyle's biographer writes of Barlow, "The doctor was a man of prodigious reading, and a proportionate memory; he knew what the fathers, schoolmen, or canonists had said upon any question in divinity or case of conscience, and being with all these accomplishments very communicative of his knowledge, he gained the highest degree of Mr. Boyle's esteem and friendship, who used, as long as he lived, to consult him upon cases of conscience, ..." Thomas Birch, The Life of the Honourable Robert Boyle (London, 1744), pp. 113-114.

Barlow's cases were published in 1692 under the title *Several Miscellaneous and Weighty Cases of Conscience Learnedly and Judicially Resolved by the Right Reverend Father in God, Dr. Thomas Barlow, Late Lord-Bishop of Lincoln*. The collection included a characteristic assortment of cases on business ethics and domestic problems. The two cases which deal with the problem of unity and uniformity are "The Case of Toleration in Matters of Religion," which concerns Christian dissenters, and "The Case of the Jews."

The earlier of the cases grew out of the efforts to secure toleration for Jews in England. The Jews had been banished from England since 1290, during the reign of Edward I. Not until the seventeenth century did the question of readmitting them seriously arise. At that time, several forces combined to make the return of the Jews to England a real possibility. First, the humanistic interest in ancient languages had extended to Hebrew so that the lines of communication between Christian and Jewish scholars and theologians were established. Even more important, the English civil wars brought the Puritans to power. With their Calvinistic interest in Old Testament theology, the Puritans as a group felt a particular affinity with the Jews as the chosen people of God. In addition, the messianic enthusiasm which was sweeping England during this period created a new interest in the Jews, since millenarians believed that the imminent second coming would be preceded by the conversion of the Jews. This surge of interest in Judaism came at the same time that the Independents, many of whom believed in a genuine freedom of religion, emerged as a political force. Jewish hopes for a welcome in England were further encouraged by economic conditions. The costly civil wars produced a precarious financial situation, and the reputation of the Jews for success in foreign trade led the government to look at them as a possible stimulus to the English economy. Even early in the war the government had granted protection to a few Jewish merchants. A small group of Jewish merchants flourished in London under the tacit protection of the government, to whom they gave not only financial assistance but also valuable information on the movements and plans of the Spanish enemy.[5]

Thus, a Puritan government seemed to offer hope at a time when Jews were experiencing renewed hostility in Spain, Portugal, and Poland, and desperately needed to find a country where the law would protect, rather than persecute them. Certain Jewish leaders on the continent watched developments in England with considerable interest, in hopes that the radical change in the government of England would produce a change in the country's policy with regard to Jews. In 1647, for example, Rabbi Manasseh ben Israel, a Dutch Jew who enjoyed an international reputation as a scholar and theologian, wrote to a friend in England:

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[5] Albert M. Hyamson, A History of the Jews in England, 2nd ed. (London, 1928), pp. 129-141. W. K. Jordon, The Development of Religious Toleration in England (Cambridge, Mass., 1932-1940), IV, 208-214. G. M. Trevelyan, England Under the Stuarts, 13th ed. (London, 1926), p. 317.

> That is, Sir, I cannot express the joy that I have when I read your letter, full of desires to see your country prosperous, which is heavily afflicted with civil wars, without doubt, by the just judgment of God. And it would not be in vain to attribute it to the punishment of your predecessor's faults, committed against ours; when ours, being deprived of their liberty under deceitfulness, so many men were slain, only because they kept close unto the tents of Moses, their legislator.[6]

During the first half of the seventeenth century several sympathetic treatments of the Jews appeared in print. In 1644 Henry Robinson supported toleration of Jews on the grounds that they would stimulate the English economy and that the Christian duty to try to convert the Jews could not be fulfilled by force or persecution, but only by rational argument.[7] Richard Overton also extended his argument for religious freedom to the Jews in The Araignement of Mr.

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[6] Quoted in "A Narrative of the Late Proceedings at Whitehall, concerning the Jews" (London, 1656) in The Harleian Miscellany (London, 1810), VI, 453. For biographies of this key figure, see Dr. F. Kayserling, The Life and Labours of Manasseh ben Israel, translated by Dr. F. de Sola Mendes in Miscellany of Hebrew Literature, 2nd series (London, 1877), The Rev. A. Lowy, ed., II, 5-96, and Cecil Roth, A Life of Menasseh Ben Israel (Philadelphia, 1934).

[7] Henry Robinson, "Liberty of Conscience" (London, 1644) in Tracts on Liberty in the Puritan Revolution 1638-1647, ed. William Haller (New York, 1934), III, 122-123, 133.

Persecution (1645), and Hugh Peters, in *A Word for the Army and Two Words to the Kingdom*, advocated:

> That merchants may have all manner of encouragement; the law of merchants set up, and strangers, even Jews, admitted to trade, and live with us; that it may not be said, we pray for their conversion with whom we will not converse.[8]

The first real step toward official toleration of the Jews, however, was taken in 1649 when two Puritans who had settled in Holland, Johanna and Ebenezer Cartwright, submitted to the General Council a petition which asked for the repeal of the statute banishing the Jews and requested that they be allowed freedom of trade and residence in England.[9] Although the petition was favorably received, more pressing concerns absorbed the interests of the new government and no action was taken. Interest in the Jewish question, however, continued among Englishmen. In 1652 an Englishman who had visited a synogogue in Leghorn wrote to a friend at home:

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[8] Richard Overton, *The Araignement of Mr. Persecution* (London, 1645) in Haller, *op. cit.*, III, 233. Hugh Peters, *A Word for the Army and Two Words to the Kingdom* (London, 1647) in *The Harleian Miscellany*, VI, 71. Other sympathetic treatments of the Jews include: Leonard Busher, Religious Peace (1614); Sargeant Finch, *The Calling of the Jews* (1621); Roger Williams, *Bloody Tenent* (1644); and Edward Nicholas, *An Apology for the honourable Nation of the Jews* (1648).

[9] The text of the Cartwright petition is published in the *Transactions of the Jewish Historical Society of England* (London, 1899), III, 87-88.

> They long to hear that England would tolerate them; surely the promises of Jehovah will be performed, and he will give them favour in all nations. O that England may not be slack herein! Shall they be tolerated by the pope, and by the Duke of Florence; by the Turks, and by the Barbarians, and others? And shall England still have laws in force against them? When shall they be recalled?[10]

But there were others who looked on the government's sympathy for the Jews with much less favor. Rumors circulated that the laws against Jews had, in fact, been repealed, and a pamphlet entitled, "The last damnable Designe of Cromwell and Ireton and their Junto or Caball," claimed that "their real design is to plunder and disarme the City of London and all the country about...and to sell it (the plunder) in bulk to the Jews, whom they have lately admitted to set up their banks and magazines of Trade amongst us contrary to an act of Parliament for their banishment."[11]

While Cromwell had not sold London, or, as some other rumors had it, St. Paul's and the Bodleian Library to the Jews, he did strongly believe that England would be served well by more industrious Jewish merchants like the Spanish and Portuguese Jews in London who, through their vast commercial enterprises, were able to supply him with money and information on his foreign enemies.[12] Nor was Cromwell unmoved by the principle of toleration and the special status of the Jews as the children of Abraham.[13] In 1651 he instructed his representatives in Amsterdam to study the Jewish problem and to talk to Jewish leaders in Holland. As a result of these conferences, Rabbi Manasseh ben Israel, who was already actively interested in securing toleration for Jews in England, wrote to the Council of State and was consequently invited to come to England. The war between Holland and England and then personal affairs in Amsterdam prevented the Rabbi from accepting the invitation immediately. In 1654, however, Manuel Martinez Dormido went to England and presented a petition to Cromwell asking for the readmission of the Jews.[14] Cromwell referred the petition to the Council of State, which rejected it. Cromwell then again invited Manasseh ben Israel to come and, in October, 1655, the Rabbi arrived in England to act as an ambassador for the

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[10] The Harleian Miscellany, VI, 451-452.

[11] History of Independency, 1649, p. 61, quoted in Roth, p. 200.

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[12] Abraham Cowley, "A Discourse By Way of Vision, Concerning the Government of Oliver Cromwell," Works (London, 1668), pp. 74-75.

[13] Charles Firth, Oliver Cromwell (New York, 1905), p. 362. Jordan, IV, 213-214.

[14] The text of Dormido's petition is printed in the Transactions of the Jewish Historical Society of England, III (1899), 89-93.

Jews in order to secure entry into England.[15]

Rabbi ben Israel printed and presented to the Council his *Humble Addresses*, which argues for the re-admission of Jews into England, and submitted another similar petition to Cromwell. Cromwell referred this petition also to the Council, which advised calling a conference to study the question. The essentials of Rabbi ben Israel's petitions were requests that the Jews be allowed to enter England with full protection of their lives and property, that the laws against them be repealed, that they be allowed to maintain synogogues and cemeteries and to have the same privileges in trade enjoyed by other Englishmen. He proposed too that Jews could settle disputes among themselves without recourse to the English judicial system.[16] Cromwell, who supported Rabbi ben Israel's goal, saw to it that the delegates to the conference who assembled at Whitehall between December fourth and December eighteenth were men likely to sympathize with at least the general purport of these proposals. Barlow's case of conscience on the toleration of Jews was written at about this time and submitted for the consideration of the conference.[17] Thus, Rabbi Manasseh ben Israel's proposals and the reactions to them of the Whitehall conference constitute the immediate background of Barlow's case.

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[15] Rabbi Manasseh ben Israel's mission to England is recounted in some detail in Lionel Abraham, "Menasseh ben Israel's Mission to Oliver Cromwell," *The Jewish Quarterly Review*, XIV (1902), 1-25; Hyamson, Chap. XIX; Roth, *op. cit.*, Chap. X; Alfred Stern, "Menasseh Ben Israel et Cromwell," *Revue des Etudes Juives*, VI (1882), 96-111; Lucien Wolf, *Menasseh ben Israel's Mission to Oliver Cromwell* (London, 1901).

[16] Kayserling, pp. 35-63. "A Narrative of the hate Proceedings at Whitehall, concerning the Jews" (London, 1656) in *The Harleian Miscellany*, VI, 452. According to Roth, "It is obvious that what Menasseh had in mind was one of the closely controlled, semi-autonomous communities of the sort tolerated in a few places abroad." Roth, p. 232.

Rabbi ben Israel's interest in settling Jews in England seems to have developed first through his correspondence with such English theologians as Nathaniel Holmes, an ardent millenarian, and John Dury, who was interested in the problem of the ten lost tribes of Israel. The fate of the lost tribes fascinated men during this period, and theories about their whereabouts proliferated. Scythians, American Indians, Tartars, and Englishmen were all proposed as the descendants of the tribes of Israel which had mysteriously disappeared.[18] It was the American Indian theory which attracted the Rabbi. Antonio Montezinos (or Aaron Levy) had presented to the Amsterdam congregation a story of his discovery of a South American tribe which he believed to be the descendants of Reuben. John Dury, the staunch champion of Christian unity in Cromwell's service, had heard of Montezinos' story and wrote to Rabbi ben Israel to confirm it. The Rabbi responded with a copy of the affidavit of Montezinos' account, which was subsequently published as an appendix to Jewes in America, or Probabilities that the Americans are of that Race, by Thomas Thorowgood (London, 1650). The consequences of this exchange were not only increased interest in things Jewish and the introduction of the Jewish-Indian story in England, but also Rabbi ben Israel's advocacy of a theory based on Montezinos' in The Hope of Israel. This first attempt to influence opinion in England was basically a messianic argument. Rabbi ben Israel knew that the dispersion of the Jews throughout the world had been prophesied, and the Jewish-Indian theory convinced him that Jews had been scattered into all corners of the world except England. Once the dispersion was complete, he reasoned, the millenium was imminent. Obtaining his admission of the Jews into England, then, was the hope of Israel, an essential step toward the promised Messiah as well as a desperately needed refuge for the persecuted Jews of the continent. As Rabbi ben Israel explains in a letter to John Dury, his treatise shows:

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[17] Rev. S. Levy, "Bishop Barlow on the Case of the Jews," Transactions of the Jewish Historical Society of England, III (1899), 151-156; Roth, p. 345.

[18] Albert M. Hyamson, "The Lost Tribes and the Return of the Jews to England," Transactions of the Jewish Historical Society of England, V (1908), Chap. VI.

> how that our Israelites were the first finders out of America; not regarding the opinions of other men, which I thought good to refute in a few words onely; and I think that the ten Tribes live not onely there, but also in other lands scattered every where; these never did come backe to the

> second Temple, & they keep till this day still the Jewish Religion, seeing all the prophecies which speake of their bringing backe unto their native soil must be fulfilled: so then at their appointed time, all the Tribes shall meet from all parts of the world into two provinces Assyria and Egypt, nor shall their kingdome be any more divided, but they shall have one Prince the Messiah the Sonne of David. I do also set forth the Inquisition of Spaine, and rehearse divers of our Nations, & also of Christians, Martyrs, who in our times have suffered severall sorts of torments, & then having shewed with what great honours our Jews have been graced also by severall Princess who professe Christianity. I prove at large, that the day of the promised Messiah unto us doth draw neer, upon which occasion I explaine many Prophecies.
>
> Amsterdam, November 25 [1649][19]

This book had much to recommend it to enthusiastic millenarians, but could hardly be expected to shape effectively the policy of the Protectorate or to effect radical changes in public opinion. So Rabbi ben Israel shifted his strategy in his next attempts to persuade the English to welcome Jewish immigrants. The formal petition he presented to Cromwell in 1655, The Humble Addresses of Manasseh ben Israel, exhibits less of what one scholar has called his "marked preference for fable and mysticism."[20] In this work he compliments Cromwell by asserting the divine source of his authority: "there is no Governor, but is first called by God unto that dignity"; and he pleads the worship of a common God: "you have so great knowledge of, and adore the same one onely God of Israel, together with us." More extensively, he warns of the punishments meted out by the God of Israel to those who sin, "especially of such who have afflicted the people of Israel; for none hath ever afflicted them, who hath not been by some ominous exit most heavily punished.... And on the contrary, none ever was a Benefactor to that people, and cherished them in their Countries, who thereupon hath not presently begun very much to flourish."[21]

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[19] Hyamson, "Lost Tribes," pp. 134-135.

[20] Kayserling, p. 16.

The contemporaneous A Declaration to the Commonwealth of England argues for freedom of religion for Jews primarily on the grounds of political expediency. In this pamphlet, Rabbi ben Israel begins by describing "the true Motives and Intent" of his trip to England. "First and Formost," he says, he came to "obtaine here for my Nation the Liberty of a free and publick Synogogue."[22] His second express motive is the Messianic argument of The Hope of Israel. The prophecy of Daniel xii.7 must be fulfilled: "And when the dispersion of the holy people shall be compleated in all places, then shall all these things be compleated." The Jewish nation has spread through all the countries of the world except the island of England. "And therefore this remains onely in my judgment, before the Messia come and restore our Nation, that first we must have our seat here likewise." The third motive is "the profit that I conceive this Common-wealth is to reap," and the fourth is "sincere affection to this Common-wealth."[23]

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[21] The text is given by Kayserling, pp. 36-37.

[22] The text, printed by Kayserling, will hereafter be cited as A Declaration, p. 38.

This introduction is followed by two sections entitled "How Profitable the Nation of the Jews Are" and "How Faithful the Nation of the Jews Are." In the first of these, Rabbi ben Israel stipulates "profit," "noblenes," and "fidelity" as the three qualities which make a people welcome in a foreign land, and he announces his intention of proving that the Jews exhibit these qualities. Since profit is the motive "which all the World preferres before all other things," he begins by establishing that "merchandizing is, as it were, the proper profession" of the Jews because God in banishing them from their own country recompensed them with "a natural instinct" by which they could acquire wealth, because their banishment imposes on them a necessity for industry, and because their homelessness discourages them from acquiring wealth in land or immovable goods. This talent for trade is profitable for the country in which they live in four ways. First, because they devote themselves wholly to trade and "contriving new Inventions," wherever they live "there presently the Traficq begins to flourish."[24] Second, their dispersal throughout the world supplies them automatically with world-wide facilities for credit and trade. From this trade, the country in which they live benefits through the availability of foreign materials like wines and jewels as well as through custom charges and import taxes. The increase in trade also helps shipping and native manufacturing. The third and fourth ways in which Jews are of particular profit to the countries which welcome them arise directly from their general persecution. Jews in countries which protect them, like Holland and Italy, enrich those nations not only with their own wealth but also with that of their family and friends in Spain, who, in fear of "the yoke of the Inquisition," send a good part of their wealth out of the country. Moreover, Jews, unlike most aliens, do not return to their native countries to enjoy the wealth they have made in foreign lands, "so they are always with their goods in the Cities where they live, a perpetuall benefit to all payments."[25]

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[23] A Declaration, pp. 38-39.

From all of these arguments, Rabbi ben Israel draws the obvious conclusion that the Jews are not a "despisable people, but as a Plant worthy to be planted in the whole world."[26]

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[24] A Declaration, pp. 40-41.

[25] A Declaration, pp. 42-43.

[26] A Declaration, p. 43.

He then goes on to cite examples of rulers who have honored the Jews. By the wisdom and kindness of such princes as the King of Denmark, the Duke of Savoy, the Bassa of Egypt, rulers in India, Persia, the Turkish empire, Italy, and the Low Countries, Jews have amassed wealth and positions of responsibility. Unlike wealthy natives, they do not consume their wealth with land or by aspiring to titles and dignities. Rather they continue to enrich the nation at large by commerce. "From whence it's easy to judge of the profit that Princes and Common-wealths do reap, by giving liberty of Religion to the Jews, and gather by them some special priveledges into their countries: as Trees that bring forth such excellent fruits."[27]

In the next section, the Rabbi begins with historical instances of Jewish fidelity to their rulers. He includes examples of Jews fighting valiantly for their kings and of their submissive obedience to their rulers even when unjustly and cruelly punished. He supports this historical evidence with an explanation that Judaism teaches constant obedience. Jews pray for the safety of their rulers whoever they are on every Sabbath or festival as they are commanded by the prophets and by the Talmud. Next, the Rabbi examines in considerable detail the circumstances of the Jews' banishment from Spain by Ferdinand and Isabella, proving that disloyalty was not the cause of their expulsion.

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[27] A Declaration, p. 48.

In the last few pages of the petition, Rabbi ben Israel replies to the most common calumnies against the Jews, usury, killing children, and inducing Christians to become Jews. Usury, he says, is charging an exorbitant rate of interest. Neither Christians nor Jews can be expected to deprive themselves by giving the use of their money to strangers without charge. Jews are forbidden to charge each other interest, but, when dealing with gentiles, they may and do charge a moderate four or five per cent interest, as do Christians. This is not robbery or fraud, which are absolutely forbidden to Jews when dealing with men of any religion. "If notwithstanding," the Rabbi concludes, "there be some that do contrary to this, they do it not as Jewes simply, but as wicked Jewes, as amongst all nations there are found generally some Usurers."[28]

The charge that Judaism requires blood sacrifice, he continues, is simply the kind of slander that is always heaped upon a persecuted minority. The very same false charge was made against the early Christians. Rabbi ben Israel then briefly relates a recent incident in which a Jew had been falsely accused of instigating the murder of a Christian child and sentenced to twenty years' imprisonment in a narrow space between two walls. The innocent man called upon God in his distress and within a year most of the judges who had sentenced him suddenly died. The survivors freed him. Rabbi ben Israel's final defense against the charge of ritual murder is that responsible Christians, "the Pope himself" and "all the Princes of Italy" had investigated it and found it false.[29]

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[28] A Declaration, p. 68.

The Rabbi simply denies the accusation that Jews induce Christians to convert to Judaism. There may be a few conversions, he admits, but Jews do not proselytize. In fact, they test and discourage those who of their own free will desire to convert. Besides, Jews would be unlikely to engage in a practice which would necessarily make them unwelcome in the lands where they must live and which would lead to their own destruction.

Having proved that Jews are faithful and profitable subjects, Rabbi ben Israel concludes without proving their nobility. Instead, he cites The Glory of Jehudah and Israel (1653) by Henry Jessey and An Apologie for the honourable nation of the Jews and all the Sons of Israel (1648) by Edward Nicholas.

These arguments were, then, familiar to the men whom Cromwell summoned to discuss the Rabbi's proposals and to whom Barlow submitted his case of conscience. The questions specifically put before the conference were "Whether it be lawful to receive the Jews. If it be lawful, then upon what terms is it meet to receive them?"[30] The lawyers on the committee, Chief Justice Glynne and William Steele, gave their opinion that the laws of the realm contained nothing which would prohibit such an action. The discussion thus developed around the desirability of the consequences of such a policy rather than around its legality. Although some historians conclude that for Cromwell the strongest argument in favor of re-admission was economic, public debate in favor of admission was usually couched in religious terms. While Rabbi ben Israel emphasized the good which Jews could do for England, Englishmen emphasized the piety that they could exhibit by granting favor to the Jews. The arguments that the presence of Jewish merchants would reduce the price of imports, encourage exports, and benefit manufacturing seem to have been confined to private meetings, and most of the economic arguments seem to have been in opposition to toleration.

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[29] A Declaration, pp. 60-61; n. 233 pp. 90-91.

[30] Hyamson, A History of the Jews, p. 159.

A contemporary account of the proceedings at Whitehall provides a valuable summary of the discussion.[31] One argument in favor of tolerance, after referring to Jewish persecution in Turkish and Roman Catholic lands and acknowledging the need for exercising caution to prevent blasphemy of Christ and the seduction of the Christians, asserts that "Some of us do believe upon Scripture grounds: 1. That it is not sinful or unlawful to suffer their coming hither."

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[31] "A Narrative of the Late Proceedings at Whitehall, concerning the Jews" (London, 1656), The Harleian Miscellany, VI, 445-454. Hyamson and Roth attribute this anonymous work to Henry Jessey. Hyamson, A History, p. 161; Roth, p. 330. This account will be referred to as "A Narrative."

It is lawful, because there is no scriptural prohibition, nor, according to the lawyers, is there a human law against it. On the contrary, the argument continues, "it is so far from being a sin, that it is a duty, in such case, to receive and harbour them."[32]

The proof offered for this conclusion is that God has commanded man to be kind to strangers (Exod. xxii. 21 and xxiii. 8; Levit. xix. 34; Deut. x. 19; Gen. xviii. 1-3 and xix. 1-3; I Tim. v. 10; and Heb. xiii. 2). Moreover, this duty is particularly commanded with respect to Jews (Is. xvi. 3, 4; Rom. xi. 28; Zach. 1, 15; Obad. 11, 12, 14). Just as Jews are particularly to be helped, God may require this duty of England more than of other nations. First, England has been particularly blessed for the sake of Jesus who was a Jew "concerning the flesh." Second, Englishmen have believed more strongly than others the prophecies concerning the Jews and customarily pray for their fulfillment more faithfully than other Christians. In addition, under Queen Mary many Englishmen themselves experienced the horrors of exile and the kindness of relief in foreign lands and should, therefore, feel special compassion for the persecuted Jews. Moreover, since England in the past treated the Jews cruelly and inhumanely, God may require satisfaction from the Englishmen of the present (Sam. xxi. 1, 2, 14). The consequences of re-

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[32] "A Narrative," p. 447.

refusing the requests of the Jews might be the displeasure of the Lord and the responsibility of further Jewish persecution by others who might follow England's example.[33]

This description of the conference relates another argument in favor of tolerance, probably by the same man, which cites the same Biblical texts and uses the same basic process of reasoning with the addition of new emphasis on the horrors which the Jews were suffering all over Europe and a new focus on the idea of converting the Jews. Here, instead of merely asserting that Jews more than others should enjoy that kindness which man owes to all strangers because of their special relationship with the Lord, he lists three reasons for their particular claim to hospitality. First, "Because their debtors we are...because we partake of the messias, and promises, and salvation, that was to the Jews, as natural branches of the olive-tree." Second, "Because their brethren we are; of the same father Abraham; they naturally after the flesh, we believers after the spirit." Third, "Because we believe those natural branches shall return; and it shall be great riches and glory to the Gentiles, especially to such where they are, and who deal kindly with them...and we hope the time is near."[34] He strengthens this millenarian argument in the section on England's responsibility by noting that "None are more likely to convince them by Scripture, and by holy life, than many in England...and happy is England, if it be instrumental in so blessed a work."[35] This idea that England could win great glory by being instrumental in the conversion of the Jews seems to have been common. One speaker at a private meeting urged that the time for conversion "is now at hand, even at the door," and another more cautious clergyman argued that even if the Jews were not yet ready for conversion England should be careful not to be the means of further hardening their hearts.[36]

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[33] "A Narrative," pp. 447-449.

[34] "A Narrative," p. 446.

The arguments on the other side of the question are related in less detail. Although there were charges that Jews were in the habit of swindling gentiles, making religious sacrifices of children, and undermining the states in which they lived, the most common arguments against their admission were the fear of spreading a false religion and the fear of commercial rivalry. Many of those present, we are told, "did fear, that if they [the Jews] should come, many would be seduced and cheated by them...and therefore they could not consent to their coming."[37] The religious tumult and proliferation of sects that England was then experiencing convinced these men that Englishmen were so unsteadfast in their religion that conversions to Judaism posed a dangerous threat. People who could be swayed by notions as ridiculous as those of the Quakers and the Ranters, they argued, would also be too weak to resist Judaism.[38]

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[35] "A Narrative," p. 447.

[36] "A Narrative,"pp. 449, 450.

[37] "A Narrative," p. 445.

The other major arguments against the admission of the Jews were skepticism about their imminent conversion and the fear that they would prove dangerous rivals to English merchants: "And though we should shew mercy to Jews, yet begin at home, and not so infect ourselves, or wrong our merchants. The merchants said, such an inlet would be to inrich foreigners, and impoverish English merchants."[39]

Thus, the discussion in 1655 seems to have proceeded mainly in terms of the economic dangers, the possibility of Christian backsliding, the duty of hospitality, the glory of converting the Jews, and guilt for past inhumanity. In order to reconcile the differences, one man with an astonishing talent for compromise made the following suggestion:

> ...if the Jews coming hither be denied, we seem to deal more hardly with Jews, than with Turks, whose coming hither to trade and converse we deny not: And, if they do come upon terms and agreements, there may be inconveniences, and offending of many; That, because the lawyers say there may only be a connivance and permission of them; and, if afterwards there be inconveniences, there may be proceedings against them, and no just cause of exceptions.[40]

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[38] "A Narrative," p. 449.

[39] "A Narrative," p. 450.

[40] "A Narrative," pp. 449-450.

It was in this context that Barlow wrote his case of conscience on the toleration of the Jews. The editor's preface to the 1692 edition of Barlow's cases of conscience states that the case was "writ at the Request of a Person of Quality, in the late troublesome Times, when the *Jews* made application to Cromwel, for their Re-admission to England."[41] The case was, then, written towards the end of 1655 as part of the discussion provoked by Rabbi ben Israel's petitions and submitted for consideration to the Whitehall conference. The particular circumstances of composition, however, are not clear. The Rev. S. Levy has suggested that the "person of quality" who requested the case might be either Robert Owen, a former pupil of Barlow's and a member of Cromwell's committee, or Robert Boyle, a friend for whom Barlow wrote "The Case of Toleration in Matters of Religion."[42] While Rev. Levy argues in favor of Boyle, his argument is unconvincing and someone more closely connected with the conference seems probable. Mr. Wolf and Mr. Roth suggest Thomas Goodwin.[43] At any rate, Barlow formulates the question in the same way that it was presented to the committee and, like the Whitehall conference, immediately dismisses considerations of constitutional legality. Thus, Barlow probably was not simply writing on a topic of current interest in 1655 but following the actual proceedings at Whitehall quite closely. Whether the case was written specifically to influence the decision at Whitehall is less certain.

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[41] Thomas Barlow, *Several Miscellaneous and Weighty Cases of Conscience* (London, 1692).

[42] Levy, "Bishop Barlow on the Cases of the Jews," pp. 152-154.

[43] Roth, p. 345.

Whatever the success of Barlow's case in resolving the doubts of the "person of quality" who requested it, "The Case of the Jews" did not solve the problem for the committee considering Rabbi Manasseh ben Israel's petition. The lawyers decided that there was no legal impediment to the admission of the Jews, but the opposition to tolerating Jews was so strong that the conference failed to reach any unanimity of opinion about a parliamentary sanction of Jewish immigration or about the terms on which they should be admitted. William Prynne's pamphlet "A Short Demurrer to the Jews Long Discontinued Remitter into England" (London, 1655) stirred up a great deal of anti-Jewish feeling.[44] The clergy feared that allowing public synogogues would be scandalous and blasphemous, and the London merchants who feared Jewish competition offered strong opposition. At the meeting of the committee on December eighteenth the proposals concerning terms of admission became harsh and repressive, and Cromwell prevented any official recommendation of intolerant terms of admission by dissolving the conference.[45] In spite of the failure of the conference to endorse his opinion, Cromwell maintained a tolerant attitude, and the small Jewish community in London grew and prospered under the Protectorate, holding public worship in their synogogue and enjoying Cromwell's protection.[46]

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[44] Ethyn Williams Kirby, William Prynne; A Study in Puritanism (Cambridge, Mass., 1931), p. 117.

II

Summary of "The Case of the Jews"

Barlow's treatment of the question raised by Rabbi ben Israel's proposal begins, like Sanderson's of the Engagement controversy, with a reformulation of the problem. First, he clears out of the way some initial difficulties by defining the central term, "Jew." Scripture, he points out, makes a distinction between Jews "in Corde" and Jews "in Carne":

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[45] For the results of the conference, see, in addition to the works listed in note 15 above, Firth, pp. 362-363; Samuel R. Gardiner, History of the Commonwealth and Protectorate (London, 1901), III, 219-221; Jordon, pp. 213-214; Trevelyan, p. 317.

[46] Firth, p. 362; Lucien Wolf, "The Whitehall Conference," Transactions of the Jewish Historical Society of England, V, (1908), 279-282. Wolf argues, in another article, that the failures of the committee to make the judges' opinion a constitutional act and to make recommendations for the manner of admission ultimately were advantageous. Since the legal opinion was not a new law, it was not invalidated by the Restoration, and the lack of official conditions of toleration prevented the establishment of the continental ghetto system. "The Jewry of the Restoration 1660-1664," Transactions of the Jewish Historical Society of England, V (1908), 5.

"For he is not a Jew, which is one outwardly; neither is that circumcision, which is outward in the flesh: But he is a Jew which is one inwardly; and circumcision is that of the heart, in the spirit, and not in the letter; whose praise is not of men, but of God." (Rom. ii. 28, 29). In Scripture the word "Jew" sometimes signifies Jews in the spiritual sense and refers to all those acknowledging the God of Abraham, including Christians. Furthermore, Jews _in carne_ can be divided into "1. _natione tantum Judaei_, 2. _Religione tantum_, 3. _Natione & Religione simul_."[47] The question of admitting Jews into England clearly concerned only religious Jews, regardless of their national origin. Barlow, of course, is not merely insisting that the relevant issue is religion, not race, but pointing out a methodological difficulty. These distinctions must be made before Scriptural authority can be of any use in deciding the moral problem confronting the Commonwealth.

Having reformulated the question as to whether Jews in religion may be tolerated within a Christian commonwealth, Barlow sets up the basic framework within which the question must be decided: lawfulness with respect to the commonwealth and lawfulness with respect to the church. This framework also provides the structural outlines of Barlow's case. He considers the lawfulness of admitting Jews into England first with respect to the state and then with respect to the church. In each section he concludes that toleration of Jews is lawful and right. The last section of the case demonstrates the nature of toleration and suggests ways in which it could be effectively practiced in this particular case.

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[47] Thomas Barlow, "The Case of the Jews, pp. 3-4.

Barlow's explanation of the rationale for this scheme of organization later in the case is essentially the conception of law espoused by Hooker and Sanderson. All human actions, he says, are either absolutely good, absolutely bad, or indifferent. Things absolutely bad or good (including, of course, actions not to be done as well as those to be done) are prohibited or commanded by God either through divine commandments or natural law. The other things are neither good nor bad in themselves but "may be either, according as they are cloathed with several circumstances."[48] Such matters become good or evil as the laws of human societies determine. The church and the state are the two human institutions which provide criteria for determining the lawfulness of tolerating Jews in England. This fundamental scheme of organization implicitly suggests a point Barlow makes explicitly clear several times in the case. Toleration of Jews is never presented as a particular instance of a universal and absolute principle of Christian love and charity. Since toleration is not for Barlow a great moral principle but a practical moral problem to be decided by human rulers, the particular action of admitting Jews into England is not considered in relation to the expressions of divine will concerning man's treatment of his fellow man but in relation to the rules directing the management of human institutions.

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[48] Barlow, "The Case of the Jews," p. 26.

According to Barlow, the two considerations relevant to governing England are the laws of the land and the possible damage or benefit to the country. England has had a statute outlawing Jews since 1290, but as the rectitude and wisdom of changing this law was the point in question, Barlow in this section of the case merely states that there is no legal reason why the law may not be changed and that, therefore, there is no legal impediment to toleration. The question of damage or benefit to the country is also dealt with cursorily. The principle taught by "the Laws of Nature and Nations" that Salus Populi Suprema Lex est means simply that if the ruler and his council think that the country "will be advantaged" by the admission of Jews, "then they may & ought to be admitted."[49] If the government decides that the admission of the Jews would not benefit England, then they ought not to be admitted. Barlow then offers two arguments for the advantages of tolerating Jews which demonstrate the characteristic Renaissance blending of policy with morality. First, records of the period before their banishmant show that the revenue raised through taxation of Jews can be beneficial. Second, England badly mistreated Jews in the past, and, since "Commonwealths and Societies never die (though particular Persons do) it may be a Query whether the Common-wealth of England now are not bound in Conscience and Equity to make some Satisfaction by real Kindness and Civility to the present Jews for the Injuries the same Common-wealth did to their Progenitors then."[50]

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[49] Barlow, "The Case of the Jews," p. 6.

Next, Barlow anticipates the charge of Jewish usury as an objection to his conclusion that admission would benefit England. He answers simply that usury is tolerated in all Christian countries. The state may control the rate of interest, and, as long as Jews obey English laws, there is "no more Faulte in them, then us."[51]

After thus refuting a common argument against Jews, establishing some practical value for toleration, and suggesting tentatively a moral obligation to expiate the sins of the past, Barlow moves to the central part of his case, the discussion of toleration with respect to "a Christian Commonwealth, as Christian." The only three ways in which such an action could be found unlawful from this point of view are discovering that it is an instance of "Inhonestum," "Incommodum," or "Scandalum."

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[50] Barlow, "The Case of the Jews," pp. 7-8.

[51] Barlow, "The Case of the Jews," p. 9.

[52] Barlow, "The Case of the Jews," p. 10.

By "inhonestum" Barlow means simply evil, against the divine law. He proves that allowing a mixture of Jews and Christians is not evil in itself by six numbered arguments from Scripture, tradition, and common sense. First, Christ and the apostles lived among Jews rather than establishing a separate physical community. Second, the apostles commanded early Christians to live so that they might convert pagans to the faith by their "Pious and Christian Conversation." From this they rationally deduced that they could live among pagans "for it were not Sense to suppose, that they could gain those by their Conversations, with whom they might not converse."[53] Since pagan idolators are far worse than Jews, Barlow argues, living among Jews would be even less questionable. Third, legal tradition has established the principle that property rights are not founded on faith (Domium non fundatur in gratia), so, just as Jews did not dispossess the Jews who became early Christians, the now-powerful Christians cannot dispossess them without obvious injustice. The fourth argument is also based on an analogy between Biblical Jews and present Christians. God expressly commanded the Jews to tolerate and treat kindly within their community a group called the Proselyti Portae who worshipped the God of Israel but were uncircumcised and rejected Mosaic law. Why then, Barlow reasons, cannot "Jews live in the Christian Church, though they be not baptized and submit not to the Gospel?"[54] The next authorities Barlow cites in support of his conclusion are imperial and canon laws attesting to the universal practice in the Christian world of permitting Jews and Christians to live together. Finally, he points out that no one questions the lawfulness of merchants' mingling with Jews in other nations and asks why doing so in England could be more dangerous.

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[53] Barlow, "The Case of the Jews," p. 11.

On the basis of these six arguments Barlow rests his conclusion that tolerating Jews in England would not constitute "inhonestum." The next criterion by which the problem must be solved with respect to the commonwealth as Christian is "incommodum" or the harm or disadvantages which might come to Christianity. The supreme magistrate properly rules by law and consideration of the good of the people. Since this good includes the church as well as the secular functions of the state, the supreme magistrate has a sacred obligation to preserve the true faith. Thus, if toleration of Jews "tended to the abolition or diminution of the true Faith...it were certainly neither pious...nor prudent to admit them."[55]

Having established the principle that an action which is not intrinsically evil becomes so if it in any way harms the national faith, Barlow goes on to demonstrate that admission of the Jews into England would not endanger the church.

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[54] Barlow, "The Case of the Jews," p. 12.

[55] Barlow, "The Case of the Jews," p. 14.

Again his arguments are drawn from scripture, tradition, and contemporary circumstances. First, the apostles would not have allowed Christians to live among the Jews if doing so were dangerous, and, second, toleration of Jews has been the "constant and continued practice of Christendom."[56] Third, while England and France have banished Jews, they did so "not for matter of Faith but Fact."[57] The statutes of banishment and the findings of historians indicate that the causes of banishment were not religious, but such crimes as blasphemy and crucifying children.

The last argument in this section is that toleration would not constitute a danger to the church because there is very little danger of Jews subverting Christians from their faith. Barlow argues that Jews would not try to convert Christians and that, even if they should, they would be unsuccessful. Jews ordinarily do not proselytize and not doing so could easily be made a condition of their admittance. Moreover, Christians are unlikely to be seduced because Judaism is "irrational" and offers no temporal advantages. The Bible tells the story of Persians converting to Judaism in droves after Esther secured special privileges for Jews within the Persian monarchy, but Judaism can no longer offer such attractions. A "dispersed and vagabond People, Slaves where-ever they come, obnoxious to the Will of those Princes and States in whose Territories they live," are unlikely to attract converts.[58]

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[56] Barlow, "The Case of the Jews," p. 15.

[57] Barlow, "The Case of the Jews," p. 16.

The investigation of the relationship of toleration to the church, or the commonwealth turned Christian, must consider the question of scandal, as well as the basic moral nature of toleration and its effect on the strength of the church. Again Barlow immediately announces his decision: "I do not see any colourable Reason, why the Readmission of the Jews into this Nation, should by any sober and intelligent Person, be thought scandalous."[59] His analysis of scandal is less detailed and his solution less rigorous, but his general approach is much like Sanderson's. He assumes the distinction between an unlawful scandalous action, in which there is negligence in its performance or evil in the act or in the intention of the doer, and a lawful action which is performed innocently and cautiously but gives rise to scandal through the over-scrupulousness or weakness of some observers. He does not, however, demonstrate or defend these distinctions as Sanderson does in "The Case on the Use of the Liturgy." Instead, Barlow simply begins to examine and to refute the hypothesis that toleration of the Jews is an unlawful scandalous action.

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[58] Barlow, "The Case of the Jews," p. 18.

[59] Barlow, "The Case of the Jews," p. 21.

If the admission of the Jews to England were just cause of scandal, Barlow argues, the action would be scandalous either to foreigners or to Englishmen. It could not be justly scandalous to foreign states because they too either tolerate Jews or have done so in the past. Englishmen have no just cause for scandal because toleration is an indifferent action and as such is fit matter for human law. If the supreme magistrate to whom the government of the country is entrusted decides to tolerate Jews legally, then their admission is no longer an indifferent thing or a matter of scandal, but of obedience. If any men take offense, such scandal is "not the fault of the Magistrate but of the Men (if there be any such) who are irrationally offended."[60]

Having shown that tolerating Jews would harm neither the church nor the state and that neither the laws of God nor of men prohibit it because it is an indifferent action, Barlow then can focus on the moral implications of his analysis. These must be considered from two points of view: "1. The Magistrate in reference to the People under him. 2. The People in reference to the Magistrate, and in reference one to another."[61] In five numbered sections Barlow stipulates the duties of the magistrate and the people in this case of conscience. First, the magistrate should judge the convenience or inconvenience of the contemplated action. Second, if, after careful and mature consideration of all present circumstances, he decides that this indifferent action is "*hic* & *nunc* best for the publick good," he may then by virtue of his legislative power command this action.[62] Third, he not only may, but *must* do so according to the law of nature that *Salus Populi suprema Lex est* and according to the sacred obligations of his office to secure the public good. Fourth, the danger of scandal should not deter him from doing that duty, for it is "more rational to hazard the Peoples, than God's Displeasure."[63] His duty to God is to secure the people's good, even if it displeases them.

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[60] Barlow, "The Case of the Jews," p. 27.

[61] Barlow, "The Case of the Jews," p. 27.

In the fifth section Barlow turns to the duty of the people. They are obliged to "yield cheerful and willing Obedience to all just Commands of their Governours (as this undoubtedly is), and then where Obedience is morally due, Offence and Scandal is in vain pretended."[64] Barlow supports this lecture on the duty of obedience by citing a sermon by Sanderson, the "best Casuist of our Nation (and may be of any Nation else)." Barlow notes that Sanderson's sermon concerns a different case of scandal but argues that "what he hath said there in Thesi, is as applicable to this, as that."[65]

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[62] Barlow, "The Case of the Jews," p. 28.

[63] Barlow, "The Case of the Jews," p. 30.

[64] Barlow, "The Case of the Jews," p. 33.

Once he has established the lawfulness of the principle of tolerating Jews and noted the duties which consequently accrue to both rulers and subjects, Barlow proceeds to examine the nature of such toleration by the method of analysis based on the Aristotelian conception of causality which Sanderson uses:

> 1. What Power is to give this Toleration.
> 2. In what things they are to give it.
> 3. For what Reasons and Motives they are to do it.
> 4. How far, and with what Restrictions and Limitations this should be done.[66]

There are, Barlow explains, in spite of the doctrines of Erastus and such of his followers as Thomas Hobbes and John Selden, two distinct powers in a Christian nation, the temporal and the spiritual. The spiritual power is derived from Christ and invested in the ministers of the church in order to promote "our eternal Good hereafter." The temporal power is derived from God and invested in the civil magistrate in order to procure "our temporal Good here."[67] Since the Jews do not want to be admitted into the Christian Church but into the commonwealth "as it is a civil Society" which is properly ruled by the civil magistrate, the responsibility and power to decide the problem belongs to him.[68]

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[65] Barlow, "The Case of the Jews," p. 34.

[66] Barlow, "The Case of the Jews," p. 34.

[67] Barlow, "The Case of the Jews," p. 36.

The second question is the material cause of lawful toleration or "In what things they are to be tolerated."[69] Barlow answers this question by returning to the problem of the nature of evil. There is a clear distinction between approbation and toleration. The word "toleration" implies putting up with some evil. Since the evil of disobeying human laws is not relevant in a case about whether to change those laws, there are two kinds of evil: violations of the law of nature and violations of the law of scripture. No. magistrate may tolerate sins against the order of nature because God Himself never tolerated such sins in all of the Old Testament. Next, Barlow applies this principle "_in_ _Hypothesi_, to our particular Case of the Readmission of the _Jews_."[70] The Jews, Barlow argues, are morally bound by the law of Moses and the Old Testament. The Old Testament contains nothing repugnant to the law of nature, so tolerating Judaism does not involve condoning violations of the law of nature. Of course, anything contrary to the law of nature which has crept into the present religion of the Jews should not be tolerated. In forbidding Jews such practices as idolatry, blasphemy, and murder, the Christian magistrate commands no more than do their own laws.

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[68] Barlow, "The Case of the Jews," p. 37.

[69] Barlow, "The Case of the Jews," p. 38.

[70] Barlow, "The Case of the Jews," p. 41.

At this point, Barlow pauses to deal with an anticipated doubt:

> *Dub*. But it must be said, *Usury*, *Poligamy*, and the *Marriage* of a *Sister*, was...permitted to them... and against the Law of Nature.[71]

He resolves the doubt by arguing that those who label these actions as sins against the law of nature are wrong.[72] God has never dispensed with the law of nature, Barlow asserts, but He did permit Jews to commit these actions. These actions, therefore, are not against the law of nature.

The other kind of evil, which Barlow discusses next, is sin against the positive law of God as found in scripture. Clearly, some Jews are guilty of this sin, but only those to whom the Gospel has been sufficiently promulgated. Any Jew to whom the Gospel has not been adequately revealed is innocent, while the Christians who have failed to spread the truth are guilty. Again, Barlow interrupts himself to contend with a possible objection. One might well argue that just as the

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[71] Barlow, "The Case of the Jews," p. 43.

[72] Barlow lists as opponents on this point Aquinas, Vasquez, and Suarez. "The Case of the Jews," p. 44.

Law of Moses is obligatory not only for those that heard it but for all their posterity, so the Gospel was sufficiently promulgated for all men by Christ and the apostles. Barlow resolves this doubt by explaining that the law promulgated on Mount Sinai binds those who did not hear it because it was passed on to them by a faithful and constant tradition. If posterity had not known of the law, it could not have been obligatory for them.

Returning to his original line of thought, Barlow poses the question, "Why may a Christian Magistrate tolerate Sins and Sinners against the positive Law of the Gospel, and not against the Law of Nature?"[73] The solution to this problem has, he says, two bases--_de facto_ and _de jure_. First, in all ages of Christianity sins against the law of the Gospel but not those against the law of nature have been tolerated. The more difficult problem is on what grounds of rationality and justice this is so. To answer this, we must, according to Barlow, examine the nature of the sins involved. Sins against the law of nature are obvious and inexcusable for any rational being. No one can plead ignorance of the law of nature. Sins against the positive evangelical law, however, are a different case. First, sufficient promulgation is a necessary requisite for this obligatory power. Second, what is sufficient is difficult to determine. What is sufficient for one man may not be so for another. For example, infidelity is a sin, but until the evilness of this action is sufficiently promulgated the action is "a Calamity, not a Crime."[74] Thus, warns Barlow, moving from the nature of sin to the moral responsibility of the magistrate, anyone who punishes another man before he is sure of his guilt "doth an Act that may be just, but certainly he is not just in doing it."[75]

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[73] Barlow, "The Case of the Jews," pp. 52-53.

The third part of Barlow's _de jure_ justification for tolerating sins against the gospel is essentially an elaboration of the assumptions made in the second. Promulgation is insufficient until it is convincing, unless, he adds in parentheses, men should perversely and willfully hinder such conviction. The fourth reason for tolerance in this case is that men can understand the mysteries of the Christian faith only through grace. Those whose hearts have not been opened by God are, therefore, less guilty than those believers who sin.

Barlow rounds out this section on the material cause of toleration by quoting a passage from Grotius to the effect that men should not be compelled to believe in the Gospel and by summarizing the progress of his case. Toleration of Jews, he has demonstrated, is not "unlawful, _in ratione inhonesti incommodi_ or _Scandali_," but is _de facto_ and _de jure_ permissible."[76]

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[74] Barlow, "The Case of the Jews," p. 57.

[75] Barlow, "The Case of the Jews," p. 57.

[76] Barlow, "The Case of the Jews," p. 62.

Next, Barlow addresses himself to the question of the final cause of toleration, the reason for readmitting Jews to England. An indifferent action may become good or evil according to the ends and motives for which it is done. In this case the reasons may be either civil or religious. In Opposition to the Jesuit Becanus, who maintains that such secular goals are unlawful, Barlow contends that the benefit of the commonwealth as a whole is a lawful motive for toleration. He does not, however, specify what benefits are anticipated in this case. The sacred ends to be served by toleration are the propogation of the Gospel and the conversion and salvation of souls. Christians are bound in charity to work for the salvation of all men, and they should strive more particularly to convert the Jews, God's own people whose conversion is promised in the Gospel. Clearly, allowing Jews to live among Christians can facilitate their conversion better than forcing them to live among "Turks, Pagans, or Papists."[77]

The concluding section of Barlow's case is devoted to the conditions of admission or the formal cause of toleration. Toleration must be effected, according to Barlow, with "Caution and Christian Prudence." In general, allowing Jews no liberties would be "unchristian and indeed inhumane Cruelty"; allowing them too much would be an "Act of Impudence and Folly." Barlow says that the specific limitations and qualifications of admission must be left to the "Piety and Prudence of the State," but he then proceeds to list such conditions as would be "convenient."[78] Besides repeating his advice that no actions against the law of nature should be tolerated, that Jews should be allowed no higher rate of interest than Christians, and that they should be forbidden to proselytize, he suggests various means to assure that they remain a despised people. They should not be permitted to attain any rank of dignity, to have Christian servants, "to wear Garments exactly of the Christian Fashion," to marry Christians, or to appear in public on Friday. They should also be required "to admit of friendly Collations and Disputations sometimes about Gospel Truths."[79] After seventeen of these conditions, Barlow concludes with a twenty-six item bibliography listing such authorities as the Justinian Code, St. Thomas Aquinas, Philip Melanchthon, and Friedrich Baldwin for those who "desire further Satisfaction in this particular."[80]

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[77] Barlow, "The Case of the Jews," p. 65.

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[78] Barlow, "The Case of the Jews," pp. 66-67.

[79] Barlow, "The Case of the Jews," pp. 67-73.

[80] Barlow, "The Case of the Jews," p. 73.

III

Comparison of Barlow's Case with Non-Casuistical Treatment of the Problem

Although the conference in 1655 failed to produce legislative enactment of the principle of toleration of Jews, it certainly stimulated a good deal of discussion of the lawfulness and expediency of tolerating dissident religions within the Commonwealth of England. The significance of Barlow's contribution to this discussion lies in its casuistical treatment of the problem rather than in its originality. Barlow made no new proposals, nor did he bring any overlooked information to bear on the issue. In his detailed case of conscience, he did, however, re-order prevalent ideas in a distinctively casuistical way. Although he seems to put little credence in millenarian prophecies, his treatment of the problem includes all of the other common arguments. He mentions hopes for the glory of converting the Jews, the expiation of guilt for past cruelty, and probable economic benefits; and he refutes the objections of usury and Christian backsliding. All of these arguments about the possible consequences of Jewish toleration are, however, subordinated to a design which focuses on the moral lawfulness of the action of allowing non-believers to live within a Christian commonwealth. For example, Barlow argues toward the beginning of the case that the presence of industrious Jews in England may well be financially advantageous to the government, and again in the conclusion of the case, he writes, "I wish the chief Magistrate could admit them on these Terms, for so they, and all theirs (omnia sua) should be suum proprium, which might supply him with Money and so save taxes. And upon these terms I (and I believe everybody else) will willingly consent to their Readmission."[81] This appeal to expediency and even greed is very strong in Barlow's discussion, but the logical progression of the case consists not in assembling evidence to prove that the presence of Jews in England would be financially advantageous for Cromwell's government, but in proving that the government could, with moral justification, decide the question on the grounds of expediency.

The first question put before the Whitehall conference, of course, was the lawfulness of tolerating Jews. But, as I said earlier, the criterion of lawfulness was taken by many of the Rabbi's supporters to be the common law of England and as such was dealt with by the lawyers on the committee while others directed their attention to the second question, the terms upon which Jews should be received. Those treatments which emphasized the moral aspects of the problem tended again to assume the moral lawfulness of toleration and to concentrate on arousing a moral fervor in favor of the proposal. Although Barlow includes the list of proposed terms upon which Jews might be accepted, his case of conscience, like those of Sanderson, devotes itself primarily to resolving the question "Is this action lawful for me, or is it not."[82] Barlow proves the lawfulness of tolerating Jews by showing that it is not intrinsically evil, that its consequences for Christianity do not render it evil, and that it gives no reasonable grounds of scandal to others.

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[81] Barlow, "The Case of the Jews," pp. 74-75.

Like Sanderson, Barlow presents the case of conscience as a real problem whose resolution requires considerable skill and erudition. While the arguments at the Whitehall conference summarized above prove briefly the lawfulness of toleration by asserting the lack of specific prohibitions and then argue persuasively for the urgency and imperativeness of England's duty, Barlow acknowledges a real and perplexing conflict of principles. The magistrates of England have a sacred responsibility to maintain and promote virtue in England, and the presence of Jews in England means the willing acceptance of those sinning against the law of God as proclaimed in the New Testament. To say "toleration," Barlow insists, is to acknowledge evil.

Thus, "The Case of the Jews," like the other cases of conscience we have examined, organizes a question about a proposed action in the form of a real moral doubt. And this case shares with those of Sanderson the assumption that the doubt about practical action must be resolved by recourse to a theoretical analysis of the nature of that action in terms of the nature of human action and the nature of moral law. Barlow, therefore, explains in detail the distinctions between natural law and positive divine law and analyzes the act of toleration in terms of the Aristotelian tradition of causality.

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[82] See my page 149.

Barlow's case of conscience differs from most of the other arguments about the admission of the Jews in its conception of the role of the individual conscience, as well as in its application of universal moral principles to a particulaw problematical action. The arguments from political or financial expediency ignore the conscience, the mind of man operating morally. Those who do see the admission of the Jews as a moral question tend to focus on the subject of the action, arguing that Jews are bad or good, or on the action itself, arguing that toleration is bad or good. The casuist is distinctive in his focus on the conscience, the operation of the mind of a man making a moral decision. "The Case of the Jews" shows that Barlow conceives of the role of conscience much as Sanderson does. Sanderson, as I said earlier, analyzes the operation of the conscience as two basic functions. The conscience must assess the morality of a proposed action in accordance with the divine will, and it must apply the truth resulting from that process by directing the will to choose right action.[83] Similarly, Barlow attempts in his case of conscience to establish the lawfulness of admitting Jews into England by examining this action in relationship to the laws of men and to explain the consequences for moral action of so understanding its lawfulness. According to Barlow, the magistrate has the power to transform any indifferent action into a moral duty. Once the magistrate realizes that toleration of Jews is an indifferent action and that it is neither "inhonestum, incommodum, or scandalum," his duty is to decide whether or not this action will be for the good of the country. If he decides it will be, his further duty is to require that Jews be admitted. If he does not do so, he is guilty of irresponsible and cowardly violation of his sacred trust of office. While the magistrate's duty is to require any action which will benefit the country, the subject's duty is to obey.

The casuist's treatment of the conscience is distinctive not only in its stress on both the intellectual and practical nature of the conscience but also in its recognition that individual conscience in part determines right action. Those who argue the practical advantages of tolerating a Jewish community are uninterested in the individual conscience. The Puritan millenarians and Rabbi Manasseh ben Israel in his most messianic moods present the imminent resolution of the Jewish problem as an expression of the inelectable workings of providence. The actions of men, whether Jews or Englishmen, are simply examples of virtue or vice in relationship to the grand scheme of history. None of the millenarians suggests that the moral duties of some men are different from those of other men. Both those who argue against toleration of Jews on the grounds that the purity of the English church and the salvation of English souls would be endangered and those who argue in favor of toleration on the grounds that Englishmen have a special duty toward Jews because of their past mistreatment in England implicitly distinguish, it is true, between Englishmen and other men. These arguments, however, are addressed solely to Englishmen and are considering a specific proposal to admit Jews into England. They never allow the possibility, which Barlow insists upon, that different Englishmen have different moral duties. To be sure, Barlow does not address his suggestions to a single individual, but he does treat the moral responsibility of the magistrate separately from the moral duty of the subject and he suggests that the duty of the magistrate depends upon the particular state of his conscience. The subject's duty, in cases of indifferent things, is to accept and obey the magistrate's decision without himself presuming to judge. The magistrate's duties are to determine whether or not the proposed action will be for the good of the country and to require those actions which he decides will be beneficial. The magistrate, however, is required to act only after he has "maturely considered" all aspects of the question and has determined without reasonable doubts that the proposed action "will really and indeed tend to the good of the Publick."[84]

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[83] See my page 52.

"The Case of the Jews" also demonstrates the third feature which characterized the conceptual basis of Sanderson's cases, attention to particular circumstances. It is true that Barlow never mentions, as do some of the other discussions of the subject, Rabbi ben Israel's proposal, the horrifying persecution which Jews were presently suffering and which made the need of finding legal protection so pressing, or even the precise financial advantages to be gained by admitting Jews. He does, however, deal with the general problem of toleration solely with regard to the particular problem of Jewish nonconformity. From this point of view, his case is more particular in emphasis than moral fables or allegories, Theophrastan characters, and sermons, but less particular than many treatises, tracts, and speeches. Moreover, Barlow exemplifies the casuistical consideration of particulars in his detailed directions of how to admit the Jews. Just as Sanderson concludes "The Case of the Engagement" with numbered directions about engaging to men in different states of conscience and "The Case of the Use of the Liturgy" with numbered directions as to how to conduct a church service with godly discretion, so Barlow concludes "The Case of the Jews" with a detailed list of specific directions to guide the admission of the Jews.

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[84] Barlow, "The Case of the Jews," p. 29.

Thus, Barlow's case of conscience, "The Case of the Jews," exhibits certain important characteristics which distinguish it from other contemporary treatments of the same problem and which ally it with Sanderson's cases of conscience. Unlike most of the men who talked and wrote about this problem, and like Sanderson, Barlow conceives of the act of deciding on a proper course of action as primarily the process of discovering whether or not a proposed action is morally lawful. He does not, therefore, argue as persuasively as possible the positive merits of his proposal to admit the Jews into England legally, but instead concentrates on resolving the problem arising from the apparent conflict between the economic advantages of admitting Jews and the religious duty of preserving and strengthening the English church, the commonwealth seen from a spiritual point of view. In addition to this focus on problematic moral action, Barlow's case notably emphasizes the role of the individual conscience. It answers the questions whether a magistrate may lawfully require toleration and whether a subject may lawfully accede to such a requirement, rather than simply debating the morality of the idea of toleration in the abstract. Finally, "The Case of the Jews" does not simply explain general principles of moral theology, but gives "specific directions for particular circumstances."[85]

If Barlow's conception of his material in this case of conscience differs noticeably from other contemporary treatments of the problem, his form of presentation and method of argument are equally distinctive. Rabbi ben Israel's A Declaration to the Commonwealth of England, for example, follows the basic form of the classical oration quite closely.[86] In the first part of the tract, the Rabbi attempts to win the good will of his audience by explaining his motives, suggesting a shared hope for the fulfillment of Old Testament prophecies, and asserting his affection for England. Next, he introduces the proposition which he will support and outlines the major divisions of his arguments, the "profit," "noblenes," and "fidelity" of the Jews. The body of the Declaration marshals evidence, primarily from contemporary events and recent history, to confirm the profitableness and loyalty of the Jews. From this two-part confirmatio, the Rabbi moves to his confutatio, refuting some of the most common accusations against Jews. In his peroratio he does not attempt to stir in his audience feelings of pity or guilt; rather he cites Christian theologians who had written of Jews sympathetically and concludes with dignity, quoting Proverbs xxvii, 2: "Let another man's mouth praise thee, and not thine own."[87]

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[85] Walter E. Houghton, Jr., The Formation of Thomas Fuller's "Holy and Profane States" (Cambridge, Mass, 1938), p. 96. See my page 75.

[86] See my summary of this pamphlet, pp. 193-198.

[87] A Declaration, p. 63.

None of the speeches at the Whitehall conference is recorded in enough detail to permit a really helpful analysis of form. The only two which are presented at any length seem to take a pretty straightforward approach.[88] The speaker dismisses the question of unlawfulness on the authority of the lawyers and the lack of scriptural prohibitions and states his proposition that the legal toleration of Jews is a duty. He then cites scripture to prove that hospitality, and particularly English hospitality toward Jews, is a duty.

Barlow's case of conscience differs in structure from these arguments. He begins not with a compliment to his audience or a statement of his solution to the question, but with an analysis of the question itself. Since the question posed for him is the lawfulness of admitting Jews into a Christian commonwealth, he first defines "Jews" and then explains that lawfulness must be considered with respect to the commonwealth as a political organization and as a religious organization.

After clarifying the question, Barlow proceeds to consider the question of lawfulness in the first of these areas. The laws which should control actions affecting the commonwealth as a political organization are simply the laws of the realm and, since the welfare of the people is the supreme law, the good of the commonwealth. Barlow takes up each of these types of law. The first offers no problem and is quickly dismissed. The second is more complex and demonstrates more fully the casuistical process. Barlow suggests both financial and moral advantages to the commonwealth from the proposed action and anticipates and answers an objection to his judgment.

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[88] See my pages 198-202.

In the next section on the lawfulness of admitting Jews into the commonwealth as Christian, Barlow follows basically this same procedure of explaining the criteria for lawfulness, stating his judgment that the proposed action of admitting Jews is lawful according to each of them, and answering the most probable objections to his judgment. Although he does not devote a separate section to answering objections, he argues that the only possible objections to admitting Jews into a Christian commonwealth as Christian, are judgments that the action is "_inhonestum_, _incommodum_, or _scandalum_." By marshalling evidence from scripture, imperial and canon law, history, and the character of contemporary Judaism, Barlow attempts simultaneously to show that the proposed action is lawful according to the relevant rules of conduct in this area and to answer common objections to the action. He answers the objections based on the ideas of intrinsic evil and evil consequences (_inhonestum_ and _incommodum_) primarily by appealing to precedent. His analysis of the criterion of scandal is longer and involves his exposition of the nature of human actions. He divides all actions into good, bad, and indifferent, and classifies toleration of Jews as an indifferent action. Then he explains the duties of magistrates and subjects and the relevance of the concept of scandal with regard to indifferent actions.

The next section of the case, where Barlow analyzes the proposed toleration of Jews according to its efficient, material, final, and formal causes, presents in more positive and more specific terms the essential nature of the lawful action of toleration. Having dealt with the possible ways in which the proposed action might be considered unlawful in a Christian commonwealth, Barlow continues by discussing the particular way the action could be lawfully executed. The purpose of the action of admitting Jews is the good of the state, both as a civil and as a religious body. Since the residence of Jews in England is, Barlow says, a political and not a spiritual matter, the action should be performed by the temporal rather than the spiritual authorities. Since the admittance of Jews into England would necessarily mean the toleration of sins against the Gospel, Barlow lists with considerable specificity directions for limiting and controlling the liberty granted to Jews.

This section would seem logically to be a major division of the case in which the casuist, after proving the lawfulness of tolerating Jews, presents specific directions for carrying out the action. Barlow, however, presents this material as a subpoint under his analysis of scandal. He numbers it, in fact, as the sixth point in his consideration of the duties of the magistrate and the people with regard to the indifferent action of tolerating Jews. The reason for subordinating this part of the case, which is forty-one pages long, more than half of the total length of the case, is probably rhetorical rather than logical. Barlow has outlined the principles by which the morality of tolerating Jews can be determined. For the sake of consistency his defense of the lawfulness of such toleration must be completed under the headings he proposes: the laws of the realm and the damage or benefit to the commonwealth, with regard to the commonwealth as a civil society, and the lack of anything *inhonestum*, *incommodum*, or *scandalum*, with regard to the commonwealth as a Christian society. Up until this section Barlow's argument for the lawfulness of toleration has been largely external. That is, he has relied on the lack of Biblical prohibitions, analagous Biblical situations, and historical precedent, without actually analyzing the nature of the action itself. He needs at some point to confront the basic question of whether or not a Christian can in good conscience protect something he believes to be evil. Barlow finally addresses this problem in this section.

In good casuistical fashion, he begins by dividing all evil actions into major classes. He then explains the rules governing man's duties with respect to each class, and considers the particular evil in question in relation to each class. Evil may be, he says, a sin against the law of man, the law of nature, or the positive law of scripture. The law of man, he reminds us, is irrelevant since the question at issue is whether or not to alter the laws of England. Sins against the law of nature are intolerable. The magistrate has a sacred duty to be "a Revenger of such Sins, and a Punisher of Malefactors against the Law of Nature."[89] The next step is to "apply this _in_ _Hypothesi_, to our particular Case of the Readmission of the Jews," and Barlow takes great pains to prove that Judaism teaches nothing contrary to natural law.[90] The other kind of sin is a violation of the positive law of God revealed in scripture, and Barlow concedes to his opponents that Jews, by repudiating the trinity and the New Testament qualify here. However, only those Jews to whom the Gospel has been sufficiently promulgated are guilty of sin, he hastens to add. Several times in this section Barlow develops his points by anticipating doubts, questions introduced by the heading "_Quare_" and answered under the heading "_Sol_." (for solution). Barlow's final and most important query is as follows:

> _Quaere_. Let the Query then be this; Why may a Christian Magistrate tolerate Sins and Sinners against

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[89] Barlow, "The Case of the Jews," p. 41.

[90] Barlow, "The Case of the Jews," p. 41.

> the positive Law of the Gospel,
> and not against the law of Nature?[91]

The solution to this question, Barlow complains, is extremely difficult, but essentially it is the impossibility for one man to know the mind of another. Sufficient promulgation, according to Barlow, involves convincing men of the authority of the law. The Christian magistrate cannot know whether Jews repudiate the Gospel out of sinful perversity or out of insufficient promulgation. Thus, the magistrate should not risk cruelty to the innocent by persecuting those who have not been taught sufficiently, but should rather admit the Jews and try to convert them. Having resolved this doubt to his satisfaction, Barlow can then go on to list the purposes which may be served by the admission of the Jews and the form of toleration which should be granted.

Thus, Barlow's strategy has been to set up in clear outline form the rules which should govern the conscience in the doubtful action which has been proposed. As he methodically relates the action to the first four criteria, he tries to allay some of the most common fears about the consequences of admitting Jews into England and to establish the fact that there is ample authority in tradition and scripture supporting his decision that the action is lawful.

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[91] Barlow, "The Case of the Jews," pp. 52-53.

Finally, under the last criterion, the absence of scandal, Barlow analyzes the proposed action in theoretical terms and attempts to relate his resolution of the problem to basic moral principles. What he has accomplished by delaying his theoretical proof until this point is the formulation of the problem of toleration as a case of scandal so that he can resolve the problem in favor of tolerating non-believers by the very arguments which the Anglicans had used to justify the enforcement of uniformity.

The Rev. Levy finds the structure of "The Case of the Jews" its most praiseworthy element:

> Although the question is very rarely raised above the level of expediency, and the general tone of the essay is not too high for a "right reverend father in God," the reasoning is masterly in arrangement, and the arguments follow one another in the most effective manner. Without altering a word, the whole pamphlet could easily be divided into chapters and sections. On a first reading one would think that the force of some propositions would be increased by a slight rearrangement of sentences. But a few experiments in such revision soon convince one that the Bishop is right in the order he adopts.[92]

This praise seems excessive in view of Barlow's illogical placement of his theoretical analysis of the problem. In praising Barlow's order as "right," however, Rev. Levy clearly means "forceful" and "effective," and in these terms he may well be correct. Obviously, Barlow has structured his treatment of Rabbi Manasseh ben Israel's much-discussed proposal carefully, and he has presented it in a form which differs significantly from non-casuistical discussions. As a casuist, his goal is to bring the relevant principles of moral theology to bear on a particular problem. Instead of adapting his arguments to the framework of classical oratory, he has organized his material to demonstrate the process by which the conscientious man reaches a right decision. He first clarifies the implications of the problem itself; next he proposes the general principles or laws by which the moral doubt can be resolved; then he systematically applies the moral principles to the problem; and finally he suggests specific directions for acting in the doubtful case without sin. Clearly, Barlow is not above manipulating his material for rhetorical purposes. Paradoxically, however, the manipulations, while logically questionable, do not serve to create an overt emotional appeal, but to give the impression of logical consistency and thoroughness. The structure of Barlow's "The Case of the Jews" resembles Sanderson's cases in its embodiment of the decision-making process of relating universal moral principles to particular problematic action.

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[92] Levy, "Bishop Barlow on the Case of the Jews," p. 154.

IV

Other Cases of Conscience

A comparison of Barlow's case with other contemporary treatments of the same topic reveals that both in his conception of his material and his form of argument, Barlow differs from those treating the problem in other genres. His treatment of the question of admitting the Jews to England resembles Sanderson's treatment of moral dilemmas in his cases of conscience, but the similarities between the two casuists should not be overemphasized. I have demonstrated that Sanderson's case on the engagement moves from the general principles governing allegiance and oaths to the particular problem of one oath of allegiance for individual men and that his case on the liturgy begins with his own individual action and then defends that action by tracing the application of the three principles of law, scandal, and schism to that particular problem. Barlow's argument that toleration is lawful does not proceed so clearly from first principles to a particular instance. Essentially his argument is that toleration is neither absolutely good nor absolutely evil because scripture supplies no positive commandment on the problem. Since the action is indifferent, it can be judged in terms of expediency. The question becomes whether toleration of Jews harms or strengthens national interest and the Christian faith. The Christian magistrate's moral responsibility is to decide the issue and the citizen's responsibility is to accept his decision.

Barlow's line of thought moves from the universal principle that actions may be divided into the good, the bad, and the indifferent to specific recommendations for men, both rulers and subjects. His examination of the lawfulness of tolerating the Jews does not, however, relate that action to any general principles governing human conduct. He merely tries to prove that the Bible does not specifically prohibit or command toleration. He condenses Sanderson's two interlocking syllogisms into one:

> Everything that is evil is to be eschewed.
> This which is propounded to me to be done
> is not evil; therefore
> I cannot conclude that it is to be eschewed.[93]

He does not propose divine laws which might be relevant to the particular action. As a result, he does not demonstrate the complex reasoning process characteristic of Sanderson. He appeals to tradition and human reason for supplementary arguments, but his real proofs are Biblical analogies and the absence of Biblical strictures on this particular problem. Where specific scriptural pronouncements are absent he appeals to the universal practice of Christendom.

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[93] Cf. Chap. II, p. 88.

The difference between Sanderson's and Barlow's method is exhibited clearly in their treatment of the problem of scandal and illustrates Hooker's distinction between the two ways of discovering the good:

> And of discerning goodness there are but these two ways: the one the knowledge of the causes whereby it is made such; the other the observation of those signs and tokens, which being annexed always unto goodness, argue that where they are found, there also goodness is.... The former of these is the most sure and infallible way, but so hard that all shun it, and had rather walk as men do in the dark by haphazard than tread so long and intricate mazes for knowledge's sake. ...
>
> Signs and tokens to know good are of sundry kinds; some more certain and some less. The most certain token of evident goodness is, if the general persuasion of all men do so account it. [94]

In some ways, Barlow's approach to the problem of scandal resembles Sanderson's. Both emphasize the difference between giving scandal and irrationally being scandalized. Both insist that indifferent things may be the material of human law and that the dutiful citizen obeys without pleading scruples or tender conscience. Sanderson, however, is never guilty of an argument as clumsy as Barlow's in this section. Criticizing a man like Barlow who championed a degree of toleration before it was a popular cause seems ungrateful, but understanding Barlow's use of the casuistical form requires us to analyze his logical method and his persuasive technique, and their integrity is less than impressive.

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[94] Richard Hooker, *Of the Laws of Ecclesiastical Polity*, I, viii, 2-3.

For example, Barlow's division of people who might be scandalized into those inside and those outside of England may be reasonable enough, but his dismissal of the danger of scandalizing European Christians on the grounds that they have done the same thing satisfies nothing except a crude sense of national autonomy. Moreover, by limiting his discussion of scandal to Englishman and to the area of indifferent things, Barlow avoids the necessity of examining the positive merits of toleration. He has already offered proof that toleration is not in itself evil. The other criteria by which Sanderson judges cases of scandal, the intention of the man acting, the degree of necessity for the action, and the spirit which informs his action, are not suitable areas of his ruler's conduct for a seventeenth-century Englishman to question. Thus, Barlow's proof that toleration is not scandalous consists mainly of an argument that toleration is an indifferent action, neither absolutely good nor absolutely evil. His argument that it is not absolutely evil is essentially a repetition of part of his argument that it is not "inhonestum." There is no specific law of God against toleration; moreover, Christ, the apostles, and the primitive church all lived among the Jews. If admission and cohabitation were absolutely evil, Christ himself would have to be judged sinful. Barlow proves that toleration is not an absolute good by means of a simple, unsupported assertion: "If their admission were a thing absolutely good,...then all those who admit them not...would be found guilty of a manifest violation of the Law of God, which no Man ever said, nor with any congruity of Reason can say."[95] Thus, when he finally uses the causal analysis which Hooker recommends, Barlow has already begged the question.

If Barlow's casuistical method shows greater reliance on a literal reading of scripture and less willingness to follow the intricate mazes of reason than Sanderson's, his shaping of the material of his case shows that their general notions of what a case of conscience should look like are strikingly similar. The structure of Barlow's case does not follow his actual method of reasoning identically, and the imposed structure seems to be designed to deal with the problem of doubt and to emphasize the casuistical insistence on the particulars of a given case and the responsibility of the individual conscience. Instead of beginning with his basic classification of admitting Jews as an indifferent action, Barlow begins by suggesting that the problem must be decided in terms of the possible consequences for church and state at a given time in history. He uses the first section on the problem of toleration with respect to the commonwealth to introduce the motifs which will recur throughout the case: the absence of specific legal impediments means that an action may lawfully be performed; a lawful action must be performed if it is for the good of the people; the good of the people includes both practical financial advantages and the opportunity to be a spiritual force in the lives of the Jews. The next section follows the same pattern. No divine law specifically condemns the action. There is no evidence that it would damage the good of the people, and it could provide an opportunity to spread the gospel. Within this section the same pattern appears in the discussion of scandal. Toleration of Jews is not absolutely evil so it must be decided on the basis of the good of the people both in a worldly and a spiritual sense.

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[95] Barlow, "The Case of the Jews," p. 24.

Thus Barlow allays some objections early in the case, insists through repetition on the relevant criteria, and demonstrates the process of thought by which he resolves moral problems. He does not analyze motives and first principles as Sanderson does, but he does offer three paradigms of what is perhaps a more modern method of deciding upon a course of action. The good becomes that which is not absolutely evil and is "commodus." This scheme of organization also allows Barlow to conclude his section proving the lawfulness of tolerating Jews by directing his attention to the individual conscience.

Barlow and Sanderson also share certain stylistic mannerisms which reflect their casuistical intent. The casuistical conception of the conscience as an intellectual faculty leads Barlow, like Sanderson, to make only sparing use of rhetorical flourishes and to strive for a tone of calm rationality. Occasionally, emotional intensity and heightened diction appear as Barlow admonishes men to do their duty ("The Magistrate is...armed with the Sword of Justice, which he must not bear in vain."[96]), but this happens rarely. Usually Barlow's diction is simple except for a sprinkling of Latin, and his complex sentence structure reflects the intricacy of the casuistical process. Perhaps the most obvious characteristic of Barlow's prose is the frequency with which he interrupts the basic syntax of his sentences with qualifying phrases. A fairly typical Barlovian period runs as follows:

> Well then, let the admission and exclusion of the Jews be (as most (manifestly they are) amongst... the Res Mediae, these things we call indifferent, and in themselves neither morally good or bad, but such as may be either, according as they are cloathed with several circumstances; Then I say if the supreme Magistrate, (who is trusted with the managing of publick affairs) think it fit to admit the Jews into this Commonweal (and of the conveniences and inconveniences of their admission, he only (and not the People)

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[96] Barlow, "The Case of the Jews," p. 41.

> is to judge) and by a Law authorize their admission; then (as to the Subjects) their admission is no more a thing of indifferency, but necessity: No more matter of Offence or Scandal, but Obedience; such as we who are Subjects, should not dispute, but obey.[97]

Because the casuist thinks of the function of casuistry as the resolution of moral problems which trouble men's consciences, he tries to present the case of conscience in a form which will lead a doubting conscience to a state of rightness and certainty. Barlow emphasizes his focus on the doubting conscience by phrasing his topics as questions and by repeatedly heading steps in the development of his argument "Objections," "Quaere," or "Sol." much as Sanderson emphasizes his concern for the doubtful man making a decision by presenting the stages in his arguments as rhetorical questions which he can then answer. Barlow relies less on logical connectives than does Sanderson, but he also uses the technique of calling attention to his basic assumptions and explicitly claiming an undebatable basis in reason. For example, various sections of his case begin, "It is a certain and undoubted Principle, that...," "I do not see any colourable Reason," and "...all things in the World are, and (of necessity) must be."[98] Like Sanderson, Barlow divides his case into numbered sections and subdivisions and thus provides a skeletal outline of his argument and suggests logical and systematic thoroughness, that in this case is partly illusory. As my analysis of the structure of Barlow's case indicates, he sometimes uses this device to complicate rather than to simplify. Pages 23-41, for example, contain sections numbered consecutively 1., 1., 2., 2., 1., 2., 3., 1., 2., 1., 2., 3., 4., 5., 6., 1., 2., 3., 4., 1., 2., 3., 2., 1., 2., 2. The editor or typesetter may be to blame for part of this confusion (the use of some Roman as well as Arabic numbers would help considerably), but Barlow must bear the responsibility for the proliferation of subdivisions within subdivisions and the repetition of numbers which serve to bewilder rather than to identify.

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[97] Barlow, "The Case of the Jews," pp. 26-27.

[98] Barlow, "The Case of the Jews," pp. 21, 23.

Barlow also uses the rhetorical device of citing authority even more extensively than Sanderson does. Of course, his references to the Bible, respected theologians, and precedents in human law sometimes constitute the essential evidence for his conclusions, but very often the ample marginal notes and textual references to authority function primarily to display Barlow's erudition and to create an impression of a solid consensus which could not be demonstrated. Frequent references to such men as Grotius, Aquinas, Calvin, Melancthon, and Sanderson, and the bibliography at the end of the case, create the impression of careful scholarship by displaying Barlow's familiarity with traditional and contemporary theology and suggest agreement among widely diverse theologians. The way in which Barlow manipulates such appeals to authority is demonstrated by his reference to Sanderson in the context of describing the duty of subjects in cases involving indifferent actions.[99] Barlow admits that Sanderson's "Discourse _in Hypothesi_ [_is_] applied to other particulars, and a different Case of Scandal from this now in question," but he argues that "what he hath said there _in Thesi_, is as applicable to this, as that."[100] Sanderson does, of course, support the generalization that subjects should obey their rulers and not plead scandal to avoid that duty, but it is by no means evident that he would condone using that argument to justify intorducing a non-conforming religious group into the commonwealth. In fact, the context of the passage Barlow cites is a rebuttal of Puritan pleas of tender conscience against enforced uniformity.[101]

Similarities between Sanderson and Barlow could be explained, however, as the personal influence of the older clergyman on his younger colleague. If these ways in which Barlow's case differs in both material and form from other discussions of Rabbi ben Israel's proposals are, in fact, generic rather than simply personal, they should also appear in other cases of conscience. John Dury's case of conscience on the same problem supplies this additional evidence. Dury's case was written for Samuel Hartlib while Dury was traveling in Germany and is dated January 8, 1656, just after the Whitehall conference.[102] Dury clearly thinks of this case of conscience with its central concern for the conscience as a particular kind of treatment of the issue presented by Rabbi ben Israel's petition. He begins his resolution of the problem by reporting the treatment of Jews on the continent, and he mentions that he has never "read or heard that the case hath ever been put to any of the churches, to be scanned as a matter of conscience."[103] Thus, Dury also conceives of the case of conscience as the treatment of a moral doubt for the human conscience. The question posed in his case is, first, "Whether it be lawful to admit Jews into a Christian commonwealth?" He argues that the action of tolerating Jews is, in itself, lawful because many Christian nations do so and because God has commanded Christians to treat strangers with charity and hospitality, and the Jews, as "a strange nation, who are banished from the country of their inheritance, and made pilgrims and wanderers through the world; a people in misery and distress" are especially appropriate recipients of Christian charity.[104] Since the action of tolerating Jews in a Christian commonwealth is lawful in general, the next question is whether or not they may lawfully be admitted in a given set of circumstances. Dury's answer is that they may be admitted into a particular Christian commonwealth at a particular time only if the circumstances of such toleration are so ordered that the consequences of the act are without evil effects. Dury proceeds to give instructions about how the admission of Jews into England could be managed lawfully, and he concludes by posing the question of whether refusing to admit Jews on such lawful terms would be lawful. This last doubt he answers by simply asserting that to refuse to help them in their distress would be unlawful.

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[99] See my page 216 .

[100] Barlow, "The Case of the Jews," p. 34.

[101] _Sermons by Robert Sanderson_, ed. R. Montgomery (London, 1841), I, 124-138. See my discussion on this technique of Barlow's on pp.

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[102] John Dury, "A Case of Conscience, Whether it be lawful to admit Jews into a Christian commonwealth?" The Harleian Miscellany (London, 1810), VI, 438-444. On Dury see J. Minton Batten, John Dury: Advocate of Christian Reunion (Chicago, 1944) and Rev. S. Levy, "John Dury and the English Jewry," Transactions of the Jewish Historical Society of England (London, 1903), IV, 76-82.

[103] Dury, "A Case of Conscience," p. 439.

Thus, Dury addresses himself to a series of moral problems involving the admission of the Jews and attempts to resolve the doubts of the conscientious man considering the action. He stresses not only the problems concerning the lawfulness of the action but also the moral duties dictated by the conscience. Like Barlow, he maintains that the final responsibility for deciding upon such an action resides with the supreme civil authority and that the duty of subjects is to accept the decisions of their superiors and "not to meddle beyond their line in the business."[105] Since only those whom "God hath set over the commonwealth to procure the welfare thereof" have the power to control the form of admission, it is their duty to admit Jews upon such conditions that the consequences of toleration will be lawful. "If they do not so," continues Dury, "I know not how to excuse them from a failing in the duty of their calling." Individual citizens, moreover, have a duty which "they ought not to refuse," to contribute "assistance and advice."[106] Both citizens and magistrates, therefore, have moral responsibility towards Rabbi ben Israel's proposal. And the responsibility is grave, for men who admit Jews into a Christian commonwealth without cautiously preventing evil consequences and men who refuse to admit them on lawful terms are both guilty of sin.[107]

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[104] Dury, "A Case of Conscience," p. 439.

Not only does Dury present the issue raised by Mannasseh's petition as basically a problem of moral doubt for the individual conscience which may incur sin either through refusal to act or through precipitous action, but he also takes pains to suggest specific directions for action. The last half of his case, in fact, is devoted to advice about "how their admission may be so circumsta tiated" as to conform with the laws governing such actions.[108]

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[105] Dury, "A Case of Conscience," p. 441.

[106] Dury, "A Case of Conscience," p. 441.

[107] Dury, "A Case of Conscience," p. 444.

In form also, Dury's case resembles those of the Anglican casuists. Dury's style is not so tortuous as Barlow's, but it exhibits the same attention to rational and practical appeal. His tone is calm and controlled, his diction simple and familiar, and his sentence structure loose and complex. Ordinarily Dury makes transitions between sentences and paragraphs by such logical connectives as "therefore," "for," "I say, then," "But," and "if." He cites as authority scripture, another Protestant theologian, and the practice of other Protestant churches. Although he does not use such labels as "objection" or "query," he does pose his topics in the form of questions, and, in his resolution of these questions, he lists numbered rules for judging actions of the kind in question and divides his directions for action into four numbered sections, the first of which is subdivided into two sections, each composed of three numbered parts. In general, then, Dury's style exhibits the same characteristics as Barlow's, in less extreme form.

The structure of Dury's "A Case of Conscience" also follows a familiar pattern, although it is less complicated than those of Sanderson and Barlow. Dury's case is in epistolary form. He begins by analyzing the question itself. Whether or not the Jews may ever be admitted into a Christian commonwealth lawfully is the first question to be answered. The next question must be whether they may be admitted in the particular circumstances of the present problem. Whether or not it is lawful to refuse to admit them "is a further question, which cannot be decided, till the former points of the lawfulness and expediency of admitting them be made out."[109] Thus, Dury explains the implications of the question early in the case and attempts to take the reader with him through the process of resolving the moral doubts to a right and sure conscience ready to act.

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[108] Dury, "A Case of Conscience," p. 441.

The first step in the process, after understanding the complexity of the question, is to discover which divine laws governing human conduct are relevant to the contemplated action. Dury asserts that since no laws prohibit toleration in itself, the action is lawful in general. The laws which are relevant to actions lawful in themselves are those concerning expediency:

> Things are said to be lawful, which being looked upon in themselves, are not repugnant to any law of God, or of nature; and consequently left free to be done, if there be some cause found inducing thereunto; or not to be done, if there be causes found to

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[109] Dury, "A Case of Conscience," p. 439.

> be contrary; in which respect things lawful are counted indifferent, that is, by themselves, not putting any obligation upon the conscience, to determine it either for doing or not doing, but leaving it at liberty to be determined by the concurrence of other circumstances, which make the doing or not doing of the thing good or bad, as cloathed with such and such qualities concomitant or consequent.[110]

The next step, then, is to apply the general rules to the particular action, and Dury points out to the reader his casuistical method as he goes: "By this notion of lawful and expedient actions, we must look upon the admitting of the Jews."[111] The rules of expediency are, according to Dury, 1. the glory of God (1 Cor. x. 31), 2. the edification and lack of offence to our neighbors (I Cor. x. 23-24, 32), and 3. the preservation of our own Christian or civil liberty (I Cor. vi. 120). Therefore, he concludes:

> If, in the circumstances of their admission nothing be found contrary to these rules, but all can be made consonant to the glory of God, to the edification of others, without danger of offence, and without bringing a yoke upon ourselves; then their admission will be judged not only lawful, but also expedient.[112]

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[110] Dury, "A Case of Conscience," p. 439.

[111] Dury, "A Case of Conscience," p. 439.

[112] Dury, "A Case of Conscience, " p. 440.

The actual responsibility for applying these rules to the admission of the Jews belongs to the civil magistrate, but, since the individual citizen is bound to give advice on request, Dury answers the question of how to admit the Jews into England both as proof that the circumstances may be so ordered that the action will be expedient and as specific instructions for carrying out the action lawfully.

First, in order to advance the glory of God by their admission, the Jews must be prevented from blaspheming the name of God, from proselytizing, and from prophaning the Christian sabbath. They must be induced to hear Christians expound the grounds of their faith and to explain the grounds of Jewish faith and practice, but both Christians and Jews must avoid "contradictory disputes" and troubling "the weaker sort of either side" with these conferences. Dury further suggests that, in such discussions with Jewish rabbis:

> the scanning of particular questions and doubts which they may have concerning the genealogy of Christ, and other circumstantial matters in the New testament, should be avoided, and the main and undeniable truths wherein the Old and New Testament agree, and which make up the substance of saving knowledge, and of the practice of piety, and fulfilling both of the promises made to us, and the threatenings denounced against them, should be only insisted upon, and branched out, to let them see the body of the whole truth of God, made out to us, and our endeavour to glorify God thereby.[113]

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[113] Dury, "A Case of Conscience," p. 442.

In order to conform to the second rule of expediency, their admission should be so ordered that they are made to understand that the motives of the state in admitting them is not desire for profit but Christian love and compassion. To this end, the state should assure them that it will not only protect their rights in England, but also that it will consider their interests in all treaties with nations such as Spain and Portugal which persecute them. In order to avoid offence, they should live separately so that "the insolencies which the common sort of both sides may use" may be prevented. They need to be carefully controlled and set apart "for they are naturally more high-minded than other nations, and make less conscience of oppressing the Gentiles, than others do; because they find they are oppressed by them, and imagine themselves the only noble people in the world; and therefore aspire to have, not only liberty to live by themselves, but riches and power over others." Such power must be prevented, Dury states, but not "by making them base and vile" as is the practice in Germany. Finally, the state should take care to prevent "temporal inconveniences which may arise from their covetous practices and biting usury."[114] Dury concludes with his stricture that since the admission of the Jews may be ordered expediently, denying their request is sinful; but he also warns in a postscript that the action is fraught with danger and Rabbi Manasseh ben Israel's demands are great, so that the state must proceed cautiously. "Time must ripen these designs, and prudence may lead them on."[115]

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[114] Dury, "A Case of Conscience," p. 443.

John Dury's case of conscience is, then, marked by the same formal and conceptual features which distinguish Barlow's case. Both men approach a moral dilemma in a temperate and practical way, and both present the case of conscience as a demonstration of the resolution of a moral doubt through the application of general moral principles to a particular set of circumstances. Dury's case, like Barlow's, proceeds from analysis of the question proposed, through presentation of general moral principles, to application of those principles to a particular situation and specific directions for moral action.

Dury's case, however, differs from Barlow's. It is shorter and less complex and involves less theoretical analysis of moral theology. Sometimes, in fact, it is not clear whether Dury has used Barlow's technique of juggling his material simply for rhetorical purposes or whether he has merely failed to explain his principles thoroughly. That is, he first considers toleration as an indifferent action which puts no obligation on the conscience except as circumstances and consequences determine. At the end of the case he decides that, because toleration of the Jews can be managed expediently, it is obligatory. Thus, unlike Sanderson and Barlow, who divide actions into good, bad, and indifferent, Dury seems to divide them into bad and indifferent. He refuses to consider whether the action is obligatory until he has examined it in relation to the criteria for indifferent actions. Does he, then, assume that every action which is not contrary to the glory of God, the edification of others, and the agent's own freedom is obligatory? Or is his assumption that the conscience is bound by every action which may positively advance the glory of God, the edification of others, or one's own liberty? Or has he simply preferred to treat a controversial action as an indifferent action and added the note of obligation to make his conclusion more forceful? The answers are not clear because Dury concentrates on the possible consequences of the action itself to the exclusion of detailed exposition of his casuistical principles.

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[115] Dury, "A Case of Conscience," p. 444.

Dury differs from Barlow also by paying less attention to the common objections to readmitting the Jews and by adopting a more humane and tolerant tone. Although he warns against granting Jews too many special privileges and assumes that they will remain "set a-part" as strangers, he is also concerned with their protection both in England and abroad. He warns against making them "base and vile" and even his recommendations for conversion assume that Christians and

Jews share "the substance of saving knowledge, and of the practice of piety" and that fruitful discussions can grow from such shared truths.[116] Barlow's motives, on the other hand, seem to be primarily financial advantage, and his specific recommendations for action seem designed to make the objects of his charity base and vile.

Neither Dury nor Barlow, however, presents a particularly reassuring basis for the idea of toleration, for neither argues for religious freedom as a natural or civil right. As Professor Woodhouse and Professor Haller have pointed out, the idea of religious freedom grew out of the concept of Christian liberty; generally, however, as Professor Woodhouse notes, "This liberty was assumed to be the special prerogative of the regenerate."[117] Because both Dury and Barlow assume that Christians possess the saving truth and the Jews lack it, neither argues for toleration on the grounds of Christian liberty, the right of the individual to work out his own salvation. Neither do these casuists reason that free and open discussion is the only way to truth. Instead, they argue that the Jews should be admitted so that they may be taught the truth and so that they may benefit English Christians economically. Even Dury with his greater breadth of humanity assumes that the primary purpose of toleration is the benefit of the English state.

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[116] Dury, "A Case of Conscience," p. 442.

[117] A. S. P. Woodhouse, "Puritanism and Liberty," The University of Toronto Quarterly, IV (1934-1935), 395-404; William Haller, Tracts on Liberty in the Puritan Revolution 1638-1646 (New York, 1934), I, 1-4.

Another limitation of these pleas for tolerance is that both Dury and Barlow assume that the Jews would live in England as a separate and alien community within the state. Dury indeed says "there is no doubt but they may lawfully be received into any civil society of men to live and have a being therein, as strangers. For it is not lawful for them to be received upon any other reasons..., they being such a people set a-part...strangers every where, and not lawful for them to make any other account of themselves."[118] Barlow's position is ambiguous. He occasionally talks as though the Jews could lawfully represent a minority view within the whole of English religious life, as, for example, when he asks, "Why then may not Jews live in the Christian Church, though they be not baptized and submit not to the Gospel?"[119] On the other hand, he clearly conceives of the Jews as a distinct community governed by special laws, existing within the state on a special basis for the benefit of English Christians. In addition, both Dury and Barlow assume the responsibility of the Christian magistrate to protect and strengthen the true faith. Thus, while they do not in fact operate consistently on the traditional idea that the church and state are coterminous, the church being simply the state looked at from a different point of view, neither do they draw the clear-cut distinction between the spiritual and the secular which enabled Roger Williams to champion toleration on a firmer basis and which Professor Woodhouse calls the sine qua non of religious liberty as a civil right.[120] Thus, in "The Case of the Jews" Barlow argues for toleration not as a citizen's right but as a prerogative of the ruling power.

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[118] Dury, "A Case of Conscience," p. 440.

[119] Barlow, "The Case of the Jews," p. 12.

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[120] Woodhouse, p. 404.

Chapter V

Thomas Barlow and the Problem of Toleration

I

The Context of "The Case of Toleration in Matters of Religion

The next case of conscience in which Barlow treats the problem of unity and uniformity is "The Case of Toleration in Matters of Religion," written, we are told, in 1660 "soon after the Restoration of K. Charles II."[1] In this case, Barlow has to confront the basic issues of unity and uniformity more directly than he did in the case of the Jews, where he avoided many problems by regarding the Jews as essentially an alien group enjoying a kind of diplomatic asylum in England. In the later case, Barlow attempts to resolve doubts concerning the lawfulness of allowing erroneous religions to exist in a Christian state with the permission of the responsible and conscientious Christian magistrate. Before trying to establish the relationship between Barlow's treatment of the question of toleration and the generic requirements of the case of conscience, we need to look at historical and intellectual context of

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[1] Thomas Barlow, Several Miscellaneous and Weighty Cases of Conscience (London, 1692), p. 2.

Barlow's case.

As Professor Jordan and others have demonstrated, the idea of religious toleration developed during the seventeenth century.[2] Of course, every Englishman did not repudiate the Elizabethan ideal of a unified and uniform national church and accept the idea of tolerance and the liberty of the individual conscience at some point between 1600 and 1660, but during this period the idea of toleration received detailed exposition and significantly widespread acceptance. Many Puritans, for example, who at the beginning of the revolutionary period were merely chaffing at political and ecclesiastical tyranny were, during the next twenty years, forced by the pressure of circumstances to endorse the concept of toleration. On the other hand, the years of controversy and chaos convinced other men of the necessity for firm and clear-cut ecclesiastical control. Thus the idea of toleration was debated repeatedly, with able men taking both sides of the argument.

The Puritan contribution to the idea of religious toleration has been carefully studied and helpfully documented in some detail. Although Puritans disagreed violently on points of doctrine and on practical questions concerning an ecclesiastical settlement, they shared certain basic doctrines and attitudes which made the development of a theory of toleration possible. In secular as well as religious affairs, the Puritans characteristically adhered to a dogmatic theology based on a rigorous scripturism. This belief in the literal infallibility of scripture could and did produce bigotry, but through the doctrine of the hierarchy of orders, the order of grace as distinct from and superior to the order of nature, this Puritan dogmatism could prepare the way for the separation of church and state. The dominance of dogmatic theology also produced in the seventeenth-century Puritan an ardent zeal for reform. This reforming spirit influenced almost all areas of experience from education to bee-keeping, but most basically it changed the idea of the church. In general, the English Protestant conceived of the church as composed of the invisible community of the elect and the visible institution governed by men. The traditional Anglican position was that, while from a spiritual point of view the invisible church was superior to the visible, from an ecclesiastical point of view the visible church must prevail.[3] The sectarians, however, insisted on bringing the visible church in closer harmony with the invisible church. This idea could manifest itself in violent repression of minor deviations from a narrow orthodoxy, but it could also lead to the idea of a church as a voluntary community of saints. The reforming spirit, then, sometimes produced militant coercion of virtue along a strictly prescribed path, but it also led to a spirit of experimentation and a repudiation of the authority of the past.[4] This scepticism about the sanctions of history and traditional customs and precedents led Puritans like Henry Parker and Roger Williams to appeal to natural law as the authority for individual rights. Since natural law describes the place in the universal order of man as man rather than of man as Christian, the arguments for individual rights derived from it had to be attributed to all men regardless of their doctrinal purity. Scripture remained the final authority for most Puritans, of course, but the general distrust of precedent produced distrust of past Biblical interpretation and the complementary idea of progressive comprehension of scriptural truth which leads Milton in Areopagitica to champion free discussion as a way to the discovery of truth.[5]

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[2] W. K. Jordan, *The Development of Religious Toleration in England* (Cambridge, Mass., 1932-1940) 4 vols.; William Haller, *Tracts on Liberty in the Puritan Revolution 1638-1647* (New York, 1934); and A. S. P. Woodhouse, "Milton, Puritanism, and Liberty," *UTQ*, IV (1934-1935), 483-513; "Puritanism and Liberty," *UTQ*, IV (1934-1935), 395-404; and *Puritanism and Liberty* (Chicago, 1951).

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[3] Charles H. and Katherine George, The Protestant Mind of the English Reformation: 1570-1640 (Princeton, 1961), p. 320.

The other feature of Puritan thought which proved important for the development of the principle of religious toleration was the concern for individual liberty. Basically, this idea of liberty, as I noted before, was exclusively religious and applied only to Christians.[6] The Christian liberty which freed Christians from the bondage of the Old Law was the prerogative of the elect, not the birthright of the Englishman. Yet many Puritans discovered in practice that they could not guarantee freedom to the saints without also granting freedom to sinners. Similarly, emphasis on the relationship between God and the individual Christian and the belief in the spiritual equality of true believers caused many Puritans to repudiate external control of their own religious development, and events forced them to extend their demands for religious liberty to others.

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[4] For these terms, "dominance of dogmatic theology," "zeal for reform," and "spirit of experimentation," and for much of my analysis of Puritan thought I am indebted to Professor Woodhouse, although the organization and emphasis of my schematization differs from his.

[5] Woodhouse, Puritanism and Liberty, pp. 45-46.

We must remember that Puritan ideas of liberty were basically exclusive and implied the aristocracy of the elect as well as the democracy of true believers. A generally Puritan attitude toward religion by no means worked toward the espousal of religious toleration inevitably or even consistently.[7] Reforming zeal and scripturism could just as easily lead to intolerant theocracy, as they did in Puritan New England.[8] Still, these forces prepared the ground of Puritan thought for the idea of toleration which was sowed by practical difficulties, and they provided the basis for Puritan arguments supporting toleration.

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[6] See my p. 261 . See also George, pp. 86-87 and Woodhouse, Puritanism and Liberty, p. 65 ff.

[7] George, p. 87.

[8] Jordan, III, 350; Perry Miller, Orthodoxy in Massachusetts, 1638-1650 (Cambridge, Mass., 1933).

The Presbyterians in general rejected toleration as an impious and heretical doctrine, and the more extreme Presbyterians advocated the death penalty for even slight divergence from the strict discipline of the Geneva model.[9] They did not argue that force was a means of effecting grace and true repentance since the body of the elect was predestined, but they regarded the willing toleration of error as an outrage perpetrated against God. More moderate Presbyterians, for the most part younger men less embittered by the struggles against Laudianism, were rather more flexible and willing to make some compromises with the actual conditions of religious life in England. They would include moderate Independents within the established church and would impose less severe penalties on those outside the establishment. They were willing to recognize reality and attempt to establish the national church on a broad enough basis to include sober and responsible Independents instead of insisting on the exclusive infallibility of a pure Presbyterian system, but they did not advance a theoretical justification of the principle of toleration. They attributed the power to suppress error to the civil magistrate and would tolerate no public worship outside the established church.[10]

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[9] Jordan, III, 274-316.

[10] Jordan, III, 316-346.

As Professor Woodhouse has shown, by 1650 we need to distinguish two separate, though overlapping groups of Puritans to the left of the Presbyterians: the Independents, who were the descendants of the Congregationalists, and the Sectaries who descended from the Separatists and Anabaptists. The Independents differed from the Presbyterians in their ecclesiastical ideal and were thus forced by Presbyterian dominance during the 1640's to develop certain aspects of their basic doctrines and become the party of toleration.[11] The Sectarians included men as diverse as Roger Williams, John Lilburne, and Thomas Walwyn, but were unified in a common advocacy of liberty of conscience and the total separation of church and state.

The uneasy coalition of Presbyterian and Independent opposition to the King and bishops was badly strained when Parliament turned to the reorganization of the church in 1643. The Presbyterians dominated the Assembly of Divines appointed to advise Parliament on the ecclesiastical settlement and made clear their intention of imposing a uniform system of Presbyterianism on England, to the chagrin of the Independent members. The conflict was brought to a crisis when five "dissenting brethren," Thomas Goodwin, Philip Nye, Sidrach Simpson, Jeremiah Burrought, and William Bridge, appealed over the head of the assembly to Parliament and the public by publishing in January, 1644, An Apologeticall Narration.[12] This pamphlet and the Presbyterian reaction to it provide a convenient illustration of moderate Independent and Presbyterian thought during the first great debate on the issue of unity and uniformity during the interregnum.

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[11] Woodhouse, Puritanism and Liberty, p. 16.

The authors of the pamphlet had all returned to Angland from exile in Holland with the overthrow of episcopacy, hoping that "God in his secret, yet wise and gratious dispensation" had reserved England for a better and fuller reformation than any yet seen.[13] They were disappointed by the Presbyterian determination to erect a classical Presby--terian system and appalled by finding themselves branded as schismatics and heretics and by the prospect of being again persecuted by an exclusive and uniform ecclesiastical establishment. The Apologeticall Narration is a defense of their own orthodoxy rather than an argument for general toleration.

The first section of the pamphlet traces chronologically the voluntary exile of the authors to escape persecution, their search for a form of church government which their consciences could judge to be in accordance with God's will, and their treatment by other reformed churches on the continent. They focus on the disinterestedness of their search for an acceptable church discipline and their abhorrence of schism. While ministers in the church of England, they performed their duties faithfully until their consciences forced them to flee. The New Testament was their principal source of direction in seeking a lawful way of worship, and the practice of other Protestant churches was their other guide. They had no ulterior motives: "We had no new Commenwealths to mar, to frame Church government unto...; we had no State-ends or Political interests to comply with."[14] They stood detached, learning from early English nonconformists, continental Protestant churches, the Puritans in America, and, negatively, from "the fatall miscarriages and shipwracks" of the Brownists.[15] They could not be called schismatics for they never denied that any of these, including even episcopal churches in England, "were the true Churches and Body of Christ, and the Ministery thereof a true Ministery."[16] Their orthodoxy was attested to in Holland where they were treated publicly as orthodox churches, not as one of "those sects (which they tollerate, but not own.)"[17]

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[12] Thomas Fuller, The Church History of Britain (London, 1837), III, 461-467.

[13] The text of An Apologeticall Narration is printed in Haller, II, 305-339. For commentary, see Haller, I, 49-52 and Jordan, III, 51-52, 368-371.

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[14] Haller, II, 311.

[15] Haller, II, 312.

[16] Haller, II, 315.

The next section of the Apologeticall Narration outlines the practice of these independent congregations in terms of liturgy, ecclesiastical officers, and church government. The three principles which guided the "way and practices of" their churches were 1. to follow the example of the primitive churches as recorded in the New Testament, 2. not to make present judgment and practice a binding law for all time, 3. in important matters, to choose "to practice safely," and follow the judgment of what was considered acceptable by most reformed churches.[18] In examples of controversial decisions they again stress their orthodoxy and flexibility. They resolved the question of qualification for church membership and the problem of a "promiscuous mixture of good and bad" in the church by accepting only those "such as all churches would acknowledge faithful," yet their rule was of such latitude that they would admit anyone "in whom there may be supposed the least of Christ."[19] They must admit that most Protestant churches govern individual congregations according to the Presbyterian rather than congregational system, so they defend the congregational system as closest to the practice of the primitive churches and consistent with the mainstream of Protestant thought, although many reformed churches have added to the basic requirements of a church.

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[17] Haller, II, 315.

[18] Haller, II, 317-319.

[19] Haller, II, 319-320.

The last major section of the pamphlet is, like the first, a more personal defense. The five dissenting brethren recall the misfortunes of their exile, defend themselves against the calumnies of schism and defiance of all authority, and urge their desire for an orderly reformation of the church and their orthodoxy in matters of doctrine.

The demands of the Independents at this time, then, were not for universal freedom of conscience but for an ecclesiastical settlement that would include all orthodox Calvinist groups. In fact, they do not ask for the establishment of the congregational system in England but for the right of an Independent minority to co-exist peacefully under a national church established according to the Presbyterian formula. Their case is basically that they are orthodox, pious Calvinists whose consciences balk at certain aspects of Presbyterianism which they are careful not to dwell upon. The Presbyterians, however, were intransigent and attacked the Independents violently in Parliament and in pamphlets.[20] The first response to the five dissenting brethren was Adam

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[20] Jordan, III, 52; Haller, I, 50-51.

Steuart's Some Observations and Annotations upon the Apologeticall Narration.[21] Steuart first proposes some "general considerations" about the intention of the Apologeticall Narration, the propriety of the divines appealing to Parliament instead of demonstrating their willingness to accept the decisions of the Assembly, and the authority of the five men to speak for other Independents. He then moves in order through the Apologeticall Narration, answering arguments, disputing conclusions, pointing out vagueness and inconsistency, and questioning motives. He counters the conciliatory tone of the Apologeticall Narration with biting sarcasm and firm denunciation. His "high esteem" for his colleagues in the Assembly of Divines would prevent him from opposing them, he writes, but that he "esteemed it no lesse a part of my dutie, and Christian libertie, as a man, to oppose myself to five men, then for five men to oppose themselves to the common opinion of five hundred thousand," many of whom are equally as holy and conscientious as the dissenters.[22]

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[21] Adam Steuart, Some Observations and Annotations upon the Apologeticall Narration (London, 1644). See Jordan, III, 370 and Haller, I, 51, for lists of other Presbyterian responses to the Apologeticall Narration.

[22] Steuart, n.p.

He suggests that their flight to escape persecution is evidence not of greater piety than other Protestant ministers but of greater cowardice. To their protestation that they are not schismatics and recognize other Protestant churches as true churches, he responds that they need to define whether they mean "Metaphysical, Logicall, or a Morall Veritie." Many ministers grant that Rome is a metaphysically true church:

> (as a Pocky whore is a true woman) howsoever her flesh be so consumed with corruption, that she cannot live, but must die of it, and that none can touch her, without danger of being infected with her sicknesse; for she is an Harlot and a Whore, howsoever clothed with Scarlet: We thank you for your favour: Ye hold us in the same category with Rome.[23]

Steuart recognized that Goodwin and his friends were more interested in proving their temperateness and flexibility and their doctrinal orthodoxy than in supporting a policy of general toleration or in arguing the relative merits of Presbyterianism and Congregationalism, but he insists on proving the superiority of Presbyterianism and pushing the Independents' argument for latitude to its logical conclusion. He agrees that their differences are not doctrinal but disciplinary, but he understands clearly that they have pleaded for toleration on the basis of their consciences without acknowledging the consequences of this position. They have not specified how much toleration they are advocating, whether for themselves alone, for all their sect, or for all who dissent from the establishment on grounds of conscience. Given their premises, it would be impossible to decide what sects and opinions should be tolerated and which should not be.[24] If their differences from Presbyterianism are as slight as they claim, Steuart argues, they should remain part of the established Presbyterian church and attempt to reform from within any defects it may have, rather than open the door for general toleration. He goes on to attach the congregational system as outlined in the Apologeticall Narration and to explain the practice of the "orthodox" churches. To the contention of the five Independents that the true church lies between the extremes of Brownism and "Authoritative Presbyteriall Government," Steuart answers:

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[23] Steuart, p. 17.

> But this is nothing, but your error: Veritie consisteth not in the middle of this, or that which ye imagine, but in a conformitie of our conceptions with their object, and due measure; which in this matter, is only Gods Word revealed in the holy Scriptures; and according to this rule I take Presbyterian Government, rather to be the middle betwixt Popish Tyranny, and Independent Anarchy.[25]

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[24] Steuart, p. 62.

[25] Steuart, p. 61.

If the Independents persist in separating even after the Assembly has agreed upon the form of a national church, they will clearly be schismatics, for schism is "a Pertinacious Separation from the true Church after sufficient conviction" and is as repugnant to the unity of charity as heresy is to the unity of faith.[26] "God in the Old Testament granted no toleration of divers religions, or disciplines, and the New Testament requireth no lesse union amongst Christians, than the Old amongst Jews."[27] The duty of the Christian magistrate is to enforce uniformity of the religious practice articulated by ecclesiastical authority. To tolerate churches separate from the true church would "open a door to all sorts of erroneous Opinions" and is in itself "unjust, and most pernicious, both to Christ's Church and this Kingdom."[28]

Steuart's argument in Some Observations is typical of the defense of strict uniformity by orthodox Presbyterians as summarized by Jordan. They based their arguments on Old Testament demands for the purity and unity of worship, not on the efficacy of compulsion to reform the erring, and very often demanded the death penalty for persistent dissent from orthodoxy either in doctrine or discipline.[29] This intractability of the Presbyterians pushed the Independents to join forces with the Sectaries in espousing the principle of toleration. In *Theomachia, Or the Grand Imprudence of Men Running the hazard of Fighting against God*, John Goodwin countered the Presbyterian attacks on toleration which the *Apologeticall Narration* had provoked with a defense of toleration more far-reaching than the *Apologeticall Narration* endorsed.[30] *Theomachia* is in the form of a sermon. In the exordium Goodwin draws a parallel between the story of God's desertion of the Israelites because of the sin of Achan (Josh. vii) and the present condition of England. He presents the defeat of the parliamentary forces at Newark as evidence of God's displeasure and the necessity for England to discover and atone for her sin.[31] He has chosen, therefore, a text which, he believes, discusses the very sin which endangers the success of the army of the godly, Acts v. 38:

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[26] Steuart, p. 56.

[27] Steuart, p. 62.

[28] Steuart, p. 71.

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[29] Jordan, III, 267-316.

[30] John Goodwin, *Θεομαχια: Or the Grand Imprudence of Men Running the hazard of Fighting against God* (London, 1644) in Haller, II, 1-58. For commentary, see Haller, I, 53-55, and Jordan, III, 377-412.

[31] Haller's note explains that Newark, besieged by Parliamentary forces, was relieved by Prince Rupert on March 22, 1644. I, 157.

> And now I say unto you, Refraine
> your selves from these men, and let
> them alone: for if this councell or
> worke be of men, it will come to nought;
> but if it be of God, ye cannot destroy it,
> lest ye be found even fighters against
> God.

Goodwin explains that the text is from Gamaliel's speech to the Pharisees dissuading them from persecution of the Apostles, and he presents a phrase-by phrase explication of the text. He then draws from the text five points of doctrine: first, it is wise not to suppress any person, doctrine, or form of worship which is held to be from God by any reasonable grounds; second, the judgment of a council is not sufficient proof of truth or falsity in religious matters; third, ways which are of men, not God, will be destroyed in time; fourth, to attempt to suppress any doctrine or practice which is from God is to fight against God; and five, many who think that they are fighting for God will find when the perfect truth is revealed that actually they fought against Him.

The fourth of these points of doctrine is the substance of _Theomachia_. Actively fighting against anything from God is the heinous sin of fighting God. The text, Goodwin explains, does not apply in context to men who through weakness or ignorance preach error instead of truth, but to men who "assume an authoritative power, whether Ecclesiastique or Civill, to suppresse or silence the publishing, practising, arguing, or debating of such wayes or Doctrines, with the judgements and consciences of men."[32] In the confirmatio he cites the end of all authority and power when Christ reigns on earth (Cor. xv. 24) as evidence of the propensity even of lawful authority to degenerate into suppression of the truth. He who suppresses the truth fights God himself, because "there is no way or truth of God, but carries an impression in it of some lineament or other of the glory and loveliness of his face.... In every way, Doctrine or Practice which is from God, there is somewhat of God himself."[33]

In the "use and application" of this doctrine to the current state of England, Goodwin observes that if the attempt to suppress any godly doctrine or practice is to fight against God, then it is extremely imprudent for men to oppose high-handedly any doctrine or practice "untill they have proof upon proof, demonstration upon demonstration, evidence upon evidence; yea, all the security that men in an ordinary way (at least) are capable of, that such wayes or Doctrines only pretend unto God as the author of them"[34] Even if Independency, the way of worship now being opposed so violently, does finally prove to be of human rather than divine origin, it has not yet proved so, and men should treat anything proposed in the name of God with the respect of diligent examination. To risk the sin of fighting against God without absolute demonstration of the falseness of the doctrines opposed is foolish, because God himself "will give testimony against them in due time, and will suppress and scatter them, and bring them to nought."[35] Some men in England are bent on extirpating the form of worship championed by godly men and thus risk the sin of fighting against God and the manifestation of God's displeasure in the defeat of the Parliamentary army. For men to follow the advice of Gamaliel, however

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[32] Haller, II, 12.

[33] Haller, II, 22-23.

[34] Haller, II, 24.

> and refrain themselves for a season from laying either violent hands, or tongues upon this Way, untill God had either untied or cut the knot, till he had given sentence against the doubtfulnesse of the disputation, need rot /sic/, would not be prejudiciall in the least to our present proceedings, or future peace.[36]

This idea that intolerance risks the sinful prohibition of truth as well as the extirpation of error is the substance of Goodwin's argument. The rest of Theomachia is comprised of subsidiary arguments, refuting objections to the central thesis. To the objection that the toleration of the error of congregationalism hinders the process of national reformation, Goodwin responds that if the Independents are right, they are speeding the reformation rather than slowing it down and if they are wrong, they are no obstacle to the rest of the nation: "The gleanings of Independence (so called) will not hinder the vintage of Presbytery."[37] Besides, reformation cannot be helped by forcing godly, conscientious people into hypocrisy. That tolerating Independency would open "a doore to all errors, heresies, and unsound opinions" is answered by the argument that error is fought most effectively by truth and so the way which best discovers truth also fights heresy best. There is in Presbyterianism "every whit as much possibilitie and danger of shutting the doore upon, and compelling such errors and heresies as are already gotten in, and otherwise have a mind to be gone, to stay."[38] The lawful way to fight error and heresy, according to Goodwin, is to preserve the purity of the church through the spiritual weapons of admonition and finally excommunication. Prisons and swords are the weapons of the world, not the church. Killing heretics, moreover, prevents their possible conversion and salvation and may make them more dangerous through apparent martyrdom: "It was an observation of Tacitus long since, that punitis ingeniis gliscit authoritas; To punish men of parts and wit, is to cast a spirit of Authoritie upon them, and to make their reputation glow."[39]

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[35] Haller, II, 25-26.

[36] Haller, II, 28.

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[37] Haller, II, 29.

[38] Haller, II, 39.

Finally, those who object that advocates of Independency undermine civil authority by denying its right to determine the ecclesiastical settlement are wrong, because Independents do not question the authority of the civil magistrate in secular things, only in spiritual things. "He that commanded to give unto Cesar the things that are Cesars, and unto God the things that are Gods (Matth. 12: 21): did Cesar as much (if not more) service, in that latter command as in the former."[40] The great mass of men who agree upon a secular authority cannot be authorized to impose a way of worship on God's chosen saints, who are few in number. Even the apostles did not have "any power or authority to impose anything upon men, as necessary, either to be believed or practiced, but what they had express commission and charge from Jesus Christ himself to impose upon such terms."[41]

Another tract from the Independent point of view, The Ancient Bounds, uses many of Goodwin's arguments.[42] The Ancient Bounds proposes two bases for liberty of conscience; first, the right of every Christian to work out his faith for himself and, second, the necessity of individual liberty for the discovery and protection of the truth. The second of these arguments is essentially that of Theomachia. There is only one truth, but the attempt to restrain error will inevitably, through human error, sometimes be applied to the truth. "And better many errors of some kind suffered than one useful truth be obstructed or destroyed."[43] Force is an ineffective method of extirpating error anyway. Human nature being what it is, forbidding particular religious opinions is a sure way of increasing them, for "we love to be prying into a closed ark. ... Our first parents were easily induced by the devil to believe there was more in that forbidden tree than in all the trees of the Garden; and men are not so wise as not to deliver themselves of such a sophistry unto this day."[44] God has ways other than the sword to lead men to the truth. "The weapons of our warfare are not carnal, but spiritual and mighty through God." (2 Cor. x. 4). The weapons of truth are the spirit working through grace and the Bible, the word of God. Adapting the ubiquitous door metaphor to his own argument, the anonymous author of The Ancient Bounds argues: "Ought not this to be considered, that truth be not prevented, by shutting the door she often chooses to come in at?"[45] This freedom of inquiry preserves the truth as well as discovering it:

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[39] Haller, II, 43.

[40] Haller, II, 57.

[41] Haller, II, 50.

[42] The Ancient Bounds, or Liberty of Conscience, tenderly stated, modestly asserted, and mildly vindicated (London, 1645) in Woodhouse, Puritanism and Liberty, pp. 247-265.

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[43] Woodhouse, p. 247.

[44] Woodhouse, p. 258.

> The running water keeps pure and clear, when the standing pool corrupts. ... The true temper and proper employment of a Christian is always to be working like the sea, and purging ignorance out of his understanding, and exchanging notions and apprehensions imperfect for more perfect, and forgetting things behind to press forward.[46]

The other main argument in The Ancient Bounds develops from the idea of Christian liberty. The idea of uniformity coerced by the state is based on the example of the kings of the Old Testament and "'tis not a sound way of arguing from them to us in everything. ...[T]heir service was compulsorily required from them, we have a word that ours should be free." Their worship consisted in outward conformity to external rules, while Christian worship is "chiefly in the heart and hidden man...which is at the beck of no human force or power."[47] The duty as well as the liberty of the Christian is "that he judges of all things, and is not concluded by the former judgment of any."[48] Moreover, the relationship of church and state has changed considerably since Old Testament times. The kings of Israel were "types of Christ, the King of the Church, and did bear visibly, and execute typically his kingly office (even as priests and prophets did his other two offices). ...Our Kings are only ministers of God in the world, ruling indeed _for_ the Church, not _in_ the Church and _over_ it as then."[49] The Jews were simultaneously a church and nation "so that he who was head of the state, was so also of the Church in a typical way; as he that was a member of the commonwealth, was by that a member of the Church, and _vice versa_), which no people ever since were."[50] Now the magistrate and the church have different functions: the magistrate to guard the civil peace and the church to judge of doctrine and interpret scripture. Even the church cannot impose the doctrines which it proposes, and the magistrate clearly does not have greater power than the ministry in performing the function of the church.[51]

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[45] Woodhouse, p. 255.

[46] Woodhouse, p. 259.

[47] Woodhouse, p. 264.

[48] Woodhouse, p. 258.

The Ancient Bounds recognizes a duty of the Christian magistrate to the true faith, but insists that he must preserve the "just care that Christ showed, to maintain the due distinction between magistracy and ministry, the office politic and eccleastic."[52] The magistrate's power is not power over men's consciences, which cannot be forced, but over the "exercise or practice of conscience." He may lawfully restrain all practices which are contrary tothe law of nature or to the good of society. Thus, by maintaining civil peace, the magistrate protects the visible church. By protecting the state from any practices contrary to the law of nature, he may promote the true faith by punishing polytheism, atheism, and blasphemy. He may "ferret the devils and devil-worship out of their holes and dens, so far as nature carries the candle before him."[53]

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[49] Woodhouse, p. 264.

[50] Woodhouse, p. 265.

[51] Woodhouse, p. 254.

In some ways, however, the civil magistrate may exceed the dictates of natural law, according to this pamphlet. He should not tolerate profanation of the sabbath, because, although not sanctioned by natural law, such compulsion infringes on no one's liberty of conscience and cannot obstruct the truth.[54] Neither should the Christian magistrate tolerate obviously erroneous doctrines such as denial of the trinity, the resurrection, or a judgment day. The defense of this exception to the separation of civil and ecclesiastical functions is that a Christian magistrate can require people to act not simply according to the law of nature like heathens, but according to the Gospel "through the common irradiations thereof."[55] The magistrate may not act as an interpreter of scripture nor impose any positive doctrine, but he may prohibit any doctrines expressly denying "received principles and manifest impressions upon all hearts that have lived under the Gospel...because these principles fall into the same rank and order and consideration with natural principles."[56] Finally, the magistrate must control the external form of the churches: "Though conscience is not to be forced to or from the thing, yet the manner of the practice is to be regulated according to peace and comeliness by the civil magistrate."[57] Beyond these bounds the magistrate may do no more than any dutiful Christian, who should propogate the truth by his own example, by preaching, writing, and exhorting.

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[52] Woodhouse, p. 255.

[53] Woodhouse, p. 259.

[54] Woodhouse, p. 251.

These two discussions of the problem of uniformity are not, clearly, blanket endorsements of the principle of toleration, but they advance arguments in defense of Independency which can be used to support the lawfulness of universal toleration. Theomachia does not deny that heresy and error may in time be discovered either through such evidence of God's will as defeats in battle or through conclusive logical demonstration. The Ancient Bounds, by granting the secular authority the power to prohibit the publication of doctrines contrary to what seem to be the essentials of Christianity, fails to deal effectively with the absolutism of the Presbyterian opposition, which views toleration itself as an intolerable doctrine which any natural man who has had the benefit of living in a Christian state should abhor. And, by granting the magistrate the power to regulate the external form of worship without coercing the conscience, The Ancient Bounds resembles very closely the Laudian arguments against Puritan objections to an enforced uniformity in indifferent things.

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[55] Woodhouse, p. 251.

[56] Woodhouse, p. 257.

[57] Woodhouse, p. 252

Despite this inconsistent clinging to some secular power to control the most radical sects and to assure some doctrinal orthodoxy, The Ancient Bounds, Theomachia, and many other Independent tracts and pamphlets extended the argument against uniformity far beyond the self-defense of the Apologeticall Narration.[58] Essentially they argued that while there is only one truth which every Christian must protect and promote, "it is unlawful to do the least thing against the truth"; and they realized that while differences of religious opinion exist, coercive power is dangerous.[59] On this basis they supported toleration of various religious opinions as the surest means to the truth and advocated separation between church and state and between secular law and the individual conscience.

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[58] Jordan, III, 347-542.

[59] Woodhouse, p. 253.

More moderate Presbyterians than Steuart were, particularly after the execution of the King, willing to grant the latitude which the Apologeticall Narration requested. Liberal Presbyterians such as Stephen Marshall and Nathaniel Hardy maintained that the magistrate had some power to protect the church and state from heresy and that the church was bound to strive for uniformity of worship and unity of spirit, but they were willing to acknowledge that existing Presbyterianism had no monopoly on truth and could not distinguish between truth and error infallibly and that, therefore, the national church should be established on a broad enough basis to include all English Protestants who embraced the fundamentals of Christian faith. Although they were vague about how the bounds of comprehension should be drawn and about how militant dissent and fundamental errors should be dealt with, these liberal Presbyterians did accept a kind of limited toleration of religious diversity. The scope of the discussion of toleration had, however, so broadened during the forties that the Independents, supported by Cromwell, would not accept minor concessions.[60]

Meanwhile, Sectarian thought was developing Independent arguments to their logical conclusion and producing ringing justifications of universal toleration. Roger Williams's The Bloudy Tenent was one of the most famous and influential of these.[61]

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[60] Jordan, III, 316-332.

Williams's defense of toleration is distinguished from the arguments of the Independents by his total dedication to complete religious liberty as a positive good. An Apologeticall Narration, Theomachia, and The Ancient Bounds all regard toleration as, to some extent, a necessary evil. Williams, with some other Sectarian theorists, views toleration as a positively good thing, not only lawful, but necessary to the peace of the state and productive of the vitality of religion.[62] Williams would grant full toleration with no reservations at all. Heretics, Roman Catholics, Jews, and atheists should all enjoy complete freedom of worship and of expression.

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[61] Roger Williams, The Bloudy Tenent, of Persecution, for cause of Conscience, discussed, in a conference between Truth and Peace (London, 1644) in The Complete Writings of Roger Williams, ed. S. L. Caldwell (New York, 1963), III. For discussions of Williams, see James Ernst, The Political Thought of Roger Williams (Seattle, 1929); Haller, I, 58-61; Jordan, III, 452-506; Perry Miller, Roger Williams (New York, 1953).

[62] Roger Williams is used here as an example of the extremely heterogeneous group of men who argued against uniformity on the basis of the right of religious freedom and the separation of church and state. Such men as William Dell, Richard Overton, John Lilburne, Samuel Richardson, Henry Robinson, William Walwyn, Gerald Winstanley, and Williams all embrace a "sect" rather than a "church" concept of ecclesiastical structure and all denounce the cruelty of persecution, but they exhibit striking differences in political thought, theological position, religious temper, and literary style.

The mainspring of Williams's theory of religious toleration was complete separation of church and state. In such passages as the often cited verses of Romans xiii, scripture certainly commands men to render due obedience to their temporal rulers and describes the rulers' duty to punish evil. The power of the temporal ruler, however, extends only to men's civil behavior, not to their spiritual lives or the churches of Christ. The only sins lawfully punishable by the state, according to Williams, are crimes against the state.[63] Like the Independents, Williams based his argument on the concept of Christian liberty, viewing the religious nation of the Old Testament as merely typical and, therefore, not applicable to states after the incarnation. Since Christianity presumes an order of grace which transcends the order of nature and since saving faith is created by "the sworn of God's Spirit, the sword of God," the true Christian church is the communion of saints, not an impure secular institution. "An enforced uniformity of Religion throughout a Nation or civil state, confounds the Civill and Religious, denies the principles of Christianity and civility, and that Jesus Christ is come in the Flesh."[64]

A strong argument against national uniformity for

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[63] Williams, pp. 147-164.

[64] Williams, p. 4.

Williams is that it necessarily confounds the unregenerate with the godly in an unholy communion.[65] The ministers of God's church on earth must preserve the purity of the church; "the uncleane and lepers [are] to be thrust forth, the old leaven purged out, the obstinate in sinne spiritually stoned to death, and put away from Israel; and this by many degrees of gentle admonition in private and publique, as the case requires."[66] The church must attempt to rid herself of idolators and unbelievers by the appropriate weapon: "that spirituall sword with two edges, the soule-piercing (in soule-saving, or soule-killing), the Word of God."[67]

True religion, for Roger Williams, consists in the relationship of the individual with God, and external trappings are hindrances rather than helps in man's struggle to discover true spiritual unity. A national church, therefore, is not even desirable. The magistrate has no power to impose on men's consciences in matters which God has left free. Because actions in themselves indifferent may be unlawful in certain circumstances, the magistrate cannot make laws on "onely or principally the meere authority or wil of the imposer," but must demonstrate the reasonableness and the expediency of such laws.[68] Religious truth has not been completely revealed to man's understanding and no church can lawfully pretend to exclusive and absolute certainty.

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[65] Williams, p. 234.

[66] Williams, p. 109.

[67] Williams, p. 161.

There are, Williams claims, "three great competitors" for the power over men's consciences in matters of doctrine and discipline: "the Arch-vicar" of Satan, the civil magistrate, and those men who separate their spiritual life from all worldly power. The devil's Arch-vicar is, of course, the Pope, who exalts himself "not only above all that is called God, but over the soules and consciences of all his vassalls."[69] Three groups try to creep under the "Arme of flesh" of the civil magistrate: the Anglican prelates or the king's Bishops," the Presbyterians or "the States Bishops," and the Independents, "who jump with the Prelates...in cast/ing/ down the Crowne of the Lord Jesus at the feet of the Civil Magistrate," and set themselves up "both as the States and the Peoples Bishops."[70] Only the separatists thus maintain the supremacy of the inviolate conscience and "make the fairest plea for the puritie and power of Christ Jesus."[71]

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[68] Williams, p. 255.

[69] Williams, p. 349.

[70] Williams, p. 351.

[71] Williams, p. 351.

The proliferation of sects, then, demonstrates spiritual vitality and integrity, not unseemly chaos.

The separation of spiritual and secular functions was not, of course, peculiar to Williams or even to the Sectarians. The desire for order and civil peace, however, led many supporters of toleration to compromise in the name of order. They often posited the exclusion of non-Christians, Roman Catholics, and the most radical sects as part of the magistrate's function of preserving peace and order in the state. Since Williams defended toleration of diversity as necessary to spiritual development instead of as a means for including particular groups within the national establishment, he made no such exceptions and proposed a completely non-spiritual basis for secular government. Kings and magistrates rule on earth not as Christ's deputies but on the authority of natural law. Men owe allegiance to their rulers, and their rulers can exact obedience and preserve the stability of the state on this basis alone. Pagan rulers as well as Christians can and do preserve the public peace without religious sanction as every "Historian, Merchant, Traveller, in Europe, Asia, Africa, America, can testify."[72] Magistrates rule by the consent of the governed and ought to protect the welfare of the people by tolerating no crimes against the good and peace of the civil state. Since, however, according to natural law, they derive their power from the common consent of the people, most of whom are not reborn in Christ, they derive no authority or ability to judge in doctrinal or ecclesiastical matters.[73]

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[72] Williams, p. 251.

The treatment of error is the other problem which advocates of toleration must address and often fail to deal with satisfactorily. Granted that the civil magistrate's functions are primarily civil, their opponents may argue, does the Christian magistrate not have, as a Christian, a sacred responsibility to preserve and promote the saving truth of the Gospel and thus to act as the secular arm of the church in protecting it from the most pernicious errors? In The Bloudy Tenent Williams resolves the problem not only by demonstrating the church's lack of authority to use force and the magistrate's lack of authority to act in religious matters, but also by explaining how irrelevant, unnecessary, and ineffective such authority would be. The attempt to suppress error leads inevitably to civil war, as recent English history eloquently testifies; and, therefore

> State policy and State necessity, which (for the peace of the State and preventing of Rivers of civil Blood) permits the Consciences of men, will be found to agree most punctually with the rules of the best Politician that ever the World saw, the King of Kings.[74]

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[73] Williams, pp. 355-356.

[74] Williams, p. 178.

Christ has commanded us to allow the tares, "Antichristian idolators," to live in the field, "the world," along with the good wheat, "true Christians."[75] They must remain mixed for a season in this world "lest the good Wheat bee pluckt up and rooted up also out of this Field."[76] There is no danger that the wheat and the tares will remain mixed long, for God knows who are His and "the great Harvest shall make the difference."[77]

> When the world is ripe in sinne... then those holy officers and executioners, the Angels, with their sharpe and cutting sickles of eternal vengeance, shall downe with them, and bundle them up for everlasting burnings.[78]

No one need fear that the existence of such evil in the world can do harm. Since the civil state is "in a natural state, dead in sin" anyway, it cannot be infected by the horrible evil of heresy, and since the godly are safe in God's hands, eternally predestined to salvation, "not one of the elect or chosen shall perish."[79]

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[75] Williams, p. 97.

[76] Williams, p. 111.

[77] Williams, p. 109.

[78] Williams, p. 112.

[79] Williams, pp. 125-126.

Finally, The Bloudy Tenent denounces the evils of persecution as eloquently as it demonstrates the lawfulness and efficacy of toleration. The denial of freedom of conscience has repeatedly plunged the world into bloody persecution and the ravages of civil war, and, even when religious uniformity can be enforced with relatively little violence, it sinfully ravishes the consciences which God has left free and it creates hypocrisy. The commands of Christ when externally applied to the unregenerate may "cast a blush of civility and morality upon them," yet this perversion of Christianity "hardens up their soules in a dreadfull sleep and dreame of their own blessed estate, and sends millions of soules to hell in a secure expectation of a false salvation."[80] Protestants have been as guilty of persecution in imposing reformed religion on the unregenerate as the Roman Catholics in their infamous inquisition:

> Oh that the God of Heaven might please to tell them how abominable in his eyes are a waight and a waight, a stone and a stone in the bag of waights!--one waight for themselves when they are under Hatches, and another for others when they come to Helme. Nor shall their confidence of their being in the truth (which they judge the Popists and others are not in) no nor the Truth it selfe priviledge them to persecute others, and to exempt themselves from persecution.[81]

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[80] Williams, p. 225.

[81] Williams, p. 205.

Roger Williams' typological reading of the Old Testament led him, then, to a revolutionary conception of the relationship between church and state, but his generally conservative Calvinistic theology separates him dramatically from some of his more radical allies in the battle against Presbyterian orthodoxy. A strong strain of anti-clericalism and theological scepticism informed the arguments for religious toleration by William Walwyn, Henry Robinson, and Richard Overton. Indeed, to these men and to the Levellers, religious toleration was only a step toward political freedom and a democratic state.[82] Although pamphlet rhetoric remains largely religious, revolutionary thought moves perceptively toward political and social reform.[83] Thomas Barlow was by no means unaffected by the growing scepticism and by the widespread revulsion from endless theological disputes and religious fanaticism, but he was intellectually and temperamentally far removed from these bold and radical men. The more immediate context of Barlow's thought on unity and uniformity is supplied by the Erastians and the liberal Anglicans.[84]

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[82] Haller, I, 87 ff.

[83] Woodhouse, pp. 11-100.

[84] It has been claimed that the term "Erastian" is misleading since historically it applies to the follows of Thomas Erastus (1524-1583), who attributed the power of excommunciation to the state rather than to the church, an idea of little significance in the development of thought in England. George, p. 188. The term was, however, extended to mean the denial of coercive authority to the church and the subordination of the church to the state. I use it here in that sense. H. Henley Henson, Studies in English Religion in the Seventeenth Century (London, 1903), pp. 150-170.

The Erastians in the Long Parliament, under the astute leadership of John Selden, had battled first the authority of the Anglican bishops and then the rival claims of Presbyterian clericalism. Thomas Fuller reports that in Selden's attempts to "humble the _jure-divino_-ship of presbytery... this great scholar, not over-loving of any (and least of these) clergymen, delighted himself in raising of scruples for the vexing of others."[85] Imbued with distrust of clerical pretension and religious zeal, the Erastians tried, throughout the period under investigation, to secure religious order by placing the power to establish a moderate ecclesiastical settlement in secular hands.[86] The Erastians espoused the cause of religious toleration not in order to advance the interests of a particular sect, not as a consequence of a theological position, and not as a step toward a fuller comprehension of divine truth. A degree of religious toleration which would include the majority of Englishmen and exclude only militant fringe groups was, for them, a necessary condition of a peaceful secular society. Henry Parker, for example, argues for a comprehensive Erastian church settlement on the grounds that church government exists in order to secure discipline and order in worship and that the Bible sanctions no particular form of government. The civil magistrate may, then, establish whatever ecclesiastical system seems to him most appropriate in view of the historical precedents and needs of his nation. The clergy have no right to impinge on the sovereign power of the secular ruler. Parker amassed scriptural evidence to prove the responsibility of the magistrate from Old Testament texts on the powers of the Hebrew Kings and the restrictions of the church to spiritual weapons from the New Testament, but the general tenor of his thought was clearly rational and his goals secular. He argued not so much for tolerance as for the power of the state over religion and assumed that political authority devoted to order rather than orthodoxy would find toleration expedient for promoting the civil peace and the economic good of the country. James Harrington and Thomas Hobbes follow Parker and Selden in their insistence on secular sovereignty and in their distrust of any narrow orthodoxy. All of these men are able to cite scripture as well as to marshall evidence from history and contemporary social and political conditions, but their conception of the problem of unity and uniformity is patently far removed from the theological concern for reconciling the prerogatives of the inviolate human conscience with the demands of religious truth.[87]

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[85] Fuller, III, 468.

[86] Jordan, II, 121-129, 453-491; III, 44-95, 270-271.

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[87] Jordan, IV, 265-329.

The Anglican contribution to the problem posed by the irreconcilable religious differences which became evident during the seventeenth century took a form quite different from either the Puritan or Erastian solutions. It developed from the rational theology of Falkland, Hales, and Chillingworth, rather than from the distinctively Puritan separation of grace and nature or the Erastian subordination of the spiritual to the secular. It proposed a broad and tolerant national church rather than the voluntary, democratic, and exclusive associations of the Sectarians. It attempted to revivify the medieval notion of an organic Christian society rather than to accept the secularized society proposed by the Erastians. The Anglican liberals proposed a spirit of tolerance as a solution to practical difficulties, as a concommitant of a theological position, and as a Christian virtue. They were not prepared, however, either to abandon the fallen world to get along as best it could without religion or to sacrifice the vitality of the visible church entirely to the whims of the people or the magistrate. As a result, they were finally unwilling to give up the idea of an established religion and some kind of ecclesiastical authority to enforce a degree of uniformity within the establishment. In general, they were willing to tolerate some religious dissent outside of the establishment as a concession to human weakness, but their primary concern was the creation of a national church broad enough and charitable enough to unify all Englishmen in a common faith.

The groups of intellectuals who gathered at Great Tew seem to have enjoyed a spirit of free inquiry together with an intense interest in theology.[88] Some of these men, notably Lucius Cary, Lord Falkland, John Hales, and William Chillingworth, developed a conception of a broadly comprehensive church based on the principles of the inviolability of the human conscience and the elusiveness of absolute truth which supplied the foundation for the distinctively Anglican theory of toleration. Belief, they contended, is a function of the individual reason and the grace of God and is created by divine revelation and rational discourse. Each man is responsible not only for what he believes but for why he believes it.[89] Chillingworth professes his convinction that

> God hath given us our reason, to discern between truth and falsehood; and he that makes not this use of it, but believes things he knows not why; I say that it is by chance that he believes the truth, and not by choice; and that I cannot but fear that God will not accept the sacrifice of fools.[90]

Coercion as a means of creating unity of faith is, therefore, fruitless and denies the right and responsibility of each man to search for the truth according to his own lights. According to Falkland, to those who search for the divine will in the scriptures following their own right reason, "God will either give his Grace for assistance to find the Truth, or his pardon if they miss it."[91] There is no absolute authority for religious truth except the Bible, which must be interpreted by the fallible human reason in the light of tradition. No man or group of men, therefore, can claim to possess the one true religious doctrine. The *jure divino* pretensions of both priests and presbyters lead to a disastrous attempt to impose a uniformity which is "destructive of unity."[92] The essentials of faith are clear to all Christians and are contained in the Apostles Creed. Beyond that formulation of fundamental truth, men must be free to hold the various opinions which their own reasons lead them to on the circuitous path to truth.[93]

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[88] See John Tulloch, Rational Theology and Christian Philosophy in England in the Seventeenth Century (Edinburgh, 1874), I, 120-129.

[89] Tulloch, I, 245-246.

[90] William Chillingworth, The Religion of Protestants a Safe Way to Salvation... (London, 1637), 12th ed. (London, 1836), p. 134.

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[91] Lucius Cary, *His Discourse of Infallibility, with an Answer to it: and his Lordships reply* (London, 1651), p. [3].

[92] Cary, "Speech concerning Episcopacy," prefixed to *Discourse of Infallibility*, 2nd ed. (London, 1660), p. 7, quoted in Tulloch.

[93] Chillingworth, pp. 248-249.

The unity of the church, therefore, consists not in uniformity of doctrine but in the communion of spirit of the faithful.

> It is the unity of Spirit in the bond of peace, and not Identitie of conceit, which the Holy Ghost requires at the hands of Christians.... [S]ince it is impossible, where Scripture is ambiguous, that all conceits should run alike, it remains, that we seek out a way not so much to establish an unity of opinion in the mindes of all; which I take to be a thing likewise impossible, as to provide that multiplicity of conceit trouble not the Church's peace.[94]

Attempts to control the personal search for truth by forcing it to conform to a narrowly conceived dogma restrict the ever-enlarging comprehension of truth and the exercise of Christian liberty. The church, therefore, should not concern itself with searching for signs of heresy and schism, two theological "scarecrows," which are used to scare away inquiring minds.

> For as Plutarch reports of a Painter, who having unskillfully painted a Cock, chased away all Cocks and Hens, that so the Imperfection of his Art might not appear by comparison with Nature; so Men willing for ends to admit of no Fancy but their own, endeavour to hinder an Inquiry into it by way of comparison of somewhat with it, peradventure truer, that so the Deformity of their own might not appear.[95]

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[94] John Hales, *Tract concerning Schism and Schismatics* (London, 1636), pp. 94-95.

[95] Hales, p. 163.

Nor should the church load itself with superfluities which cause real or pretended scruples, but it should strive to create faith and stimulate honest pursuit of knowledge of God's will by protecting and encouraging free and intelligent speculation and discussion.

The latitudinarian attitude toward the problem of unity and uniformity is summed up succinctly by Chillingworth:

> [T]o reduce christians to unity of communion, there are but two ways...: the one, by taking away the diversity of opinions touching matters of religion; the other, by showing that the diversity of opinions, which is among the several sects of christians ought to be no hinderance to their unity in communion. Now the former of these is not to be hoped for without a miracle.... What then remains, but that the other way must be taken, and christians must be taught to set a higher value upon these high points of faith and obedience wherein they agree, than upon those matters of less moment wherein they differ; and understand that agreement in these ought to be more effectual to join them in one communion, than their difference in other things of less moment to divide them. When I say, in one communion, I mean in a common profession of these articles of faith, wherein all consent: a joint worship of God, after such a way as all esteem lawful; and a mutual performance of all those works of charity which Christians owe one to another. ... Why should any error exclude any man from the church's communion, which cannot deprive him of eternal salvation?[96]

Falkland, Hales, and Chillingworth were all dead by the time of the Restoration, when Anglicans again enjoyed the power to establish a Church of England. Their important work was done before the practical difficulties involved in a workable religious settlement became clear. Those of their friends from Great Tew who survived the period of parliamentary rule, Hammond, Sheldon, and Morley, exhibited an attitude quite the reverse of the conciliatory and temperate spirit Chillingworth suggests. In spite of Jordan's assertion that "the general structure of Anglican thought during the revolutionary decades was remarkably and consistently tolerant and liberal," there were very few attempts to resolve the later and more difficult problems of religious differences along the lines suggested by the latitudinarians.[97] The most famous treatment of the problem of toleration by a man loyal to the monarchy and episcopal church government is Jeremy Taylor's Liberty of Prophesying, published in 1647 while Presbyterians dominated England. Since Taylor's ideas on unity and uniformity will be considered in more detail later in connection with his casuistry, it should suffice here to note that in the Liberty of Prophesying he defended toleration for Anglicans in arguments markedly similar to those of the great Tew group. Taylor bases his argument for toleration on the liberty of conscience and the lack of any infallible arbiter of truth, and he advocates a comprehensive national church based on the few fundamental and uncontroversial tenets of Christianity as a solution to the dissensions which had destroyed England's religious unity. Like the other Anglican latitudinarians, Taylor deplored the spectacle of men consumed by pride and fear killing each other in the name of Christ, and he laid even more emphasis on the elusiveness of absolute truth. Whereas Chillingworth argued for tolerating doctrinal diversity on the grounds that men discover truth through reasoning rather than through blindly obeying, Taylor more often argued that since all guides to the perfect truth of scripture (reason as well as church councils and traditions) are untrustworthy, there is no infallible arbiter of truth and hence no authority which can lawfully impose its version of the truth. This scepticism of attaining absolute truth allowed Taylor to accept the possibility that Roman Catholics, Puritans, Arminians, and even pagans might be saved, but it also led him to value the security of institutionalized religion. Since fallen human reason is badly flawed, men usually have a better chance of avoiding sin by accepting the traditional faith. The complete neutrality of the state in religion would place too onerous a responsibility on the ordinary layman and endanger the vitality of religion. Taylor would enlarge the bounds of the established church to include the majority of Englishmen, but he has no real solution for the problem of militant dissent which would denounce such a broad church as impure and heretical. The state has the power to establish a church, according to Taylor, and thus it presumably may impose penalties on those who refuse to worship in the national church. Neither the magistrate nor the church, however, has the power to coerce men to believe any particular doctrine beyond that contained in the Apostles' Creed.

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[96] Chillingworth, p. 265.

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[97] Jordan, IV, 361.

Another Anglican who is sometimes linked with the liberals or latitudinarians is Thomas Fuller, who meditated in print on the problems of restoring religious order to England at just about the same time as Thomas Barlow was writing his case of conscience on Christian dissenters. Fuller, like Taylor, repeatedly counsels mutual tolerance and moderation and disparages the zeal that leads to dissension instead of unity in Christ.[98] He urges both Puritans and Anglicans to make concessions in the interests of peace and unity and reminds men that "[t]riumphant perfection is not to be hoped for in the church militant."[99] He advises welcoming Puritans back into the fold and recommends tolerating dissenting sects.[100] He suggests as a means of forgetting doctrinal controversies that all pulpits in England either abstain from preaching for a month devoted to prayers instead of sermons or abstain for a year from mentioning "any part of differences" and "only deliver what belongeth to faith and good works."[101] Ideally, he seems to want to return as closely as possible to the church before the civil war without using force. He asserts the authority of the secular authority to establish the one true church "as the doctrine thereof is established in the Thirty-nine Articles" and advises "other sects" to content themselves with the "great gift of toleration" and by degrees cordially reconcile themselves to the Church of England."[102]

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[98] Thomas Fuller, Mixt Contemplations in Better Times (1660), ed. William Pickering (London, 1830), pp. 255-256, 278-280, 311, 314, 354-356.

[99] Fuller, Mixt Contemplations, pp. 255-256, 339.

[100] Fuller, Mixt Contemplations, pp. 327, 258-259.

Fuller's proposal for solving England's religious problems, then, is mutual forbearance and a spirit of moderation in establishing a church which will include the respectably moderate and sensible majority of Englishmen. He seems able, indeed, to be tolerant of everything except immoderate zeal. Writing of fanatics, he admits that such name-calling could be said to inflame rather than sooth differences, but responds simply that "when they withdraw the thing we will subtract the name."[103] An anecdote about an ape that snatched a baby and dangled it precariously upside down from a rooftop before returning it to its cradle epitomizes Fuller's point of view--his weary desire for peace and order and his uncomprehending yet unmalicious attitude toward the religious passions which he had observed in action for twenty years. Fanatics, like the ape with the child, "have pleased their fancies these late times with throwing and tossing and tumbling of religion." Just as the baby's father could not shoot the ape without endangering the child, so force is dangerous to the church in dealing with fanatics. "However, it is now to be hoped, that after they have tired themselves out with doing of nothing, but only trying and tampering this and that way to no purpose, they may at last return and leave religion in the same condition wherein they found it."[104]

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[101] Fuller, Mixt Contemplations, pp. 334-335.

[102] Fuller, Mixt Contemplations, pp. 256-258.

[103] Fuller, Mixt Contemplations, pp. 294-296.

Thus, a small group of liberal Anglicans developed during the seventeenth century an alternative to the Laudian program of thorough uniformity without sacrificing the ideal of a vital national church and organic religious society. They built a theory of liberty of conscience on scepticism of the possibility of attaining absolute truth and on a perception of the incompatibility of coercion with sincere intellectual assent and religious experience. They proposed to replace bigotry and dissension with unity in worship and fundamental doctrines and charitable toleration of differences of opinion. It is easy to be critical of their solution, which fails to recognize the strength of conviction possessed by those they are prepared to tolerate. The very distinction between fundamentals and non-fundamentals upon which they erect their defense of toleration was an intolerable heresy to some pious men. Neither William Laud nor Adam Steuart nor Roger Williams would have considered the church they envisioned worthy of the name. Still, such a church would certainly have comprehended the majority of Englishmen and would have fostered that respect for differing opinions and beliefs so central to the modern ideal of toleration.

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[104] Fuller, Mixt Contemplations, pp. 357-358.

The moderation of the latitudinarians did not, however, prevail when the Anglicans established a church at their return to power. To complete our outline of the context of Barlow's case, therefore, it yet remains to describe briefly the prevailing Anglican opinion on unity and uniformity at the Restoration. As the church they created demonstrates, this opinion was essentially that of Laud. The leaders of the clergy were such high-Anglicans as Gilbert Sheldon and Henry Hammond, who identified the cause of the church completely with the cause of the King and saw the return of the one as a signal for the complete restoration of the other.[105] If anything, the years of exile had widened the gap between Anglicanism and Puritanism.[106] For example, Gilbert Sheldon's position on dissent was simple. Men who refuse to accept the church willingly must be forced to comply for the good of their souls and the welfare of the state: "'tis necessary that they who will not be governed as men by reason and persuasion should be governed as beasts by power of force."[107] Bosher has described in fascinating detail the way in which the Anglican clergy, working with Hyde, established a church purged of its Puritan clergy and based on the authority of a divinely instituted episcopacy. Charles' Declaration of Breda and his Declaration concerning Ecclesiastical affairs raised Presbyterian hopes that accommodation for moderate Puritans could be found within a broadly comprehensive establishment. The Laudian clergy, however, by "diplomacy and duplicity" frustrated these hopes by preventing action by Parliament on the ecclesiastical settlement until the cathedral chapters had already been refilled with staunch Anglicans.[108] When the Savoy Conference finally convened in April of 1661 to consider modification of the Prayer Book in an attempt to compromise with moderate Puritans, High-Church men were already firmly in control. They may have been "desirous of comprehending within the Establishment the moderate men of the defeated party," but they did not have to make substantial concessions and clearly were not willing to do so.[109] Like Laud himself, these men did not believe that they were forcing men's consciences. They were willing to tolerate a good deal of doctrinal diversity within a comprehensive church, but they insisted that the unity of the church had to be preserved by a prescribed common worship and ceremonial uniformity.[110]

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[105] Jordan's claim that it is difficult to find defenses of the extreme Anglican position is easy to understand when one realizes that he includes among the liberal moderates Henry Thorndike, whose position on ecclesiastical uniformity we have already examined, and Henry Hammond, whom Bosher calls "a strict High Churchman." Jordan, IV, 361-362, 366-367; Bosher, p. 29. On this point, see Novarr, pp. 370-371.

[106] Bosher, p. 80.

[107] Carte Mss. 45 f. 151, quoted in Bosher, p. 265.

II

A Summary of the Case

The question treated in Barlow's "The Case of

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[108] Norman Sykes, From Sheldon to Secker: Aspects of English Church History 1660-1768 (Cambridge, 1959), p. 3.

[109] Bosher, p. 228; Novarr, pp. 443-450.

[110] Bosher, p. 271.

Toleration of Christian Dissenters" does not rise out of a specific proposal such as Rabbi ben Israel's, but it was clearly a question of immediate public importance at the time of composition. As England again experienced a radical change in government, the question of ecclesiastical settlement must have been uppermost in the minds of many, and the weight and complexity of the problem which had been debated repeatedly for the preceding twenty years was such that it raised cases of conscience in the minds of public-spirited men, among whom was Robert Boyle, to whom Barlow's case of conscience is addressed. Thomas Birch's account of the composition of Barlow's case, however, suggests that it was not actually written to resolve the moral doubts of an individual doubting conscience. According to Birch, Robert Boyle was worried that the restored clergy, embittered by years of exile or harassment, would impose an ecclesiastical settlement which would be troublesome to the country. He engaged, therefore, several friends to write defenses of the liberty of conscience from various points of view. Sir Peter Pett was to treat the political aspects of toleration, and John Dury was hired "to affirm toleration abroad." To treat the issue from a theological point of view, Boyle engaged Thomas Barlow "whose judgment in that point he well knew." Barlow's part in the project was suppressed, however, because

Boyle feared that such liberal sentiments would harm his friend's ecclesiastical career.[111]

In a sense, then, "The Case of Toleration of Christian Dissenters" was written not as a genuine case of conscience, but as a contribution to the pamphlet debate surveyed in the first part of this chapter. Nevertheless, Barlow calls his argument a case of conscience. The differences, therefore, between the other discussions of toleration we have surveyed and Barlow's discussion, which he cast in the form of a case of conscience, would indicate what, to Barlow at least, were the essential features of the case of conscience as a literary form.

Barlow begins this case as he had begun the earlier one on the Jews, by stating the question and explaining its implications:

> Sir,
> It is now a good while ago since you gave me command, (for so your Desires are, and shall be to me) to give you my Opinion in writing, concerning the Toleration of several Religions, or Opinions, in a well-governed Church and State.[112]

Because, he continues, the question concerns toleration of various religions, atheism is not considered. This does not simplify the problem much, however. There can be only one true doctrine and discipline; thus among contradictory religious opinions within Christianity, only one can be true. We must also assume that the religion accepted by the "just Authority of any Nation" is the true religion.[113] The question, then, is whether or not a false religion may be tolerated in a well-governed state.

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[111] Thomas Birch, The Life of the Honourable Robert Boyle (London, 1744), pp. 299-300.

[112] Barlow, p. 3.

Having explained the implications of "several Religions, or Opinions," Barlow goes on to define "toleration." First, he says, we must understand that the establishment of religion is within the power of the supreme political authority. Legal establishment imposes a twofold obligation: first, obedience and second, punishment for disobedience. Toleration, then, means exemption from the obligation of obedience and exemption from punishment for nonconformity.

Since toleration is legal exemption from the laws establishing the practice of the true faith, it protects those tolerated from punishment but does not imply approval or encouragement. Barlow concludes this introductory section by restating the question: "This premised, the grand Query will be; Whether, and how far the Supream Power may, and ought to grant such a Toleration."[114] Next, he outlines roughly the principles of his analysis:

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[113] Barlow, p. 3.

> Now seeing the granting of such a Toleration (as almost all other humane Actions) may be good or bad, according to the various Circumstances, and several Conditions.
> 1. Of the Power that grants.
> 2. Of the Persons to whom the Grant is made.
> 3. Of the Religions tolerated.
> 4. And of the time in which such Toleration is granted.
>
> It cannot be expected that I, (or anybody else) should give one Absolute and Categorical answer to the entire Query: and therefore I shall crave leave to say something towards an Answer, by several steps and degrees, in these following positions.[115]

The first of these positions is based on consideration of the "Person to whom the grant is made" and "the time in which such Toleration is granted." A large and powerful religious group, Barlow asserts, must necessarily be tolerated since the ruin of the true religion through insurrection would be risked by suppressing it. Barlow supports this position by rather vaguely invoking "the Principles of right Reason, and the perpetual Practice of all Nations."[116] Analogously, a diseased member of the body is endured when amputation would be fatal, and mutinies in the army are more often pardoned than punished. Thus the principle of right reason seems to be the prudence of joining those whom you cannot beat. "As it is impossible to punish universally, so 'tis ever dangerous to punish a major, or any great and considerable part of a Community."[117] France and Spain illustrate the practice of nations. France tolerates its large minority of Protestants, and Spain's failure to do so causes her a great deal of trouble.

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[114] Barlow, p. 11.

[115] Barlow, pp. 11-12.

[116] Barlow, p. 14.

Barlow applies this first principle of toleration to England only tentatively. The large number of schismatics nourished by the civil war may possibly mean that toleration would be the safer alternative to continued bloodshed. Barlow cautiously qualifies this advice however.

> This I only propose (in thesi) to be considered: But (in hypothesi) what is particularly most fit to be done in this time and Nation, I shall not be so confident as to undertake the determination, but (according to my duty) leave it to the great prudence of those to whom God has given a greater measure of understanding and authority for such a business.[118]

Barlow proceeds then to examine a situation where those of a dissenting religion are not powerful or dangerous to the peace of the state. In such cases, one must consider the nature of punishments for nonconformity and the nature of the false religions, before resolving the problem. Punishments are either spiritual or temporal. The church may inflict such spiritual punishments as withholding sacraments, but has no way of punishing any men who are not of her own body. The punishment for nonconformity must, therefore, be temporal since dissenters do not recognize the church. Since toleration is exemption from temporal punishment for nonconformity and temporal punishment is the responsibility of the civil magistrate, he must examine the "nature and condition of the Religions or Opinions to be tolerated."[119]

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[117] Barlow, p. 14.

[118] Barlow, p. 16.

To guide the magistrate in this investigation, Barlow lists three principles. First, "no State should or will grant a toleration to any Religion, which contains any thing in it which may be destructive to the Civil peace and safety of it self."[120] Second, "as no King (in prudence) can give a Toleration to such Religions and ways of Worship as are destructive to the Civil State and publick peace of the Commonwealth; so *pari passu*, (and for the same reasons) he cannot tolerate such as are destructive of the Ecclesiastical state or peace of the Church."[121] Third, "If any Religion, or way of Worship, approve and practice anything against the Law of Nature, (as Blasphemy, Theft, Perjury, Adultery, etc.) such as all sober men acknowledg to be crimes, and are destructive, or evidently dangerous to the well-being of humane Society; I suppose no prudent Prince should give a Toleration to such."[122]

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[119] Barlow, p. 21.

[120] Barlow, p. 21.

As proof for the first rule, Barlow returns to his medical analogy (gangrened members must be removed if they endanger the whole body), and then he lists as examples of religions destructive of civil peace any Anabaptist sect which denies the principle of civil rule, religions which prohibit taking oaths of allegiance, religions which teach complete pacificism, and those which acknowledge a higher temporal power than the state which can absolve men from their oath of allegiance. The same reasons, Barlow asserts, hold for the general principle that religions destructive of the church are intolerable. He cites Seneca as proof that the responsible Prince must prohibit religions which condone crimes against natural law. He clarifies this rule by cautioning that before punishing crimes against the law of nature, one must be certain that they are indeed crimes, "For it will seem irrational, and (indeed) unjust to inflict a certain punishment, for dubious and uncdrtain crimes."[123] Moreover, only those crimes against nature which are "dangerous" and "noxious to humane Society" are punishable. Such crimes against natural law as ingratitude and lying have always escaped human punishment because it is "very hard to know when a man was ingrateful, and the measure of his ingratitude, and therefore hard to punish it."[124] The Adamites who are secually promiscuous and the Quakers "who give no civil respect to any" are examples of religions which cannot be tolerated because of their clear and dangerous breaches of natural law.[125]

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[121] Barlow, p. 30.

[122] Barlow, pp. 30-31.

After eliminating these clear-cut cases of groups which must be tolerated or must be prohibited, Barlow comes to "the main Query, concerning matter of Faith and false Opinions: whether men of a false faith and heretical opinions, may be tolerated, and have a grant of Impunity, or whether the Magistrate is to punish such erring persons?" This doubtful group includes "Sectaries, Papists, Socinians,"[126]

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[123] Barlow, p. 32.

[124] Barlow, p. 34.

[125] Barlow, p. 35.

[126] Barlow, pp. 36-37.

Since toleration is immunity from temporal punishment, Barlow first divides temporal punishments into punishments of the purse and of the person. The latter group includes imprisonment, banishment, and death. Barlow's answer to the "main query" is "though I shall not say, that it is absolutely unlawful for the Civil Magistrate (in this case) to use temporal, and compulsory, punishments, yet... it will be very difficult and dangerous for him to do it."[127] In the second half of "The Case of Toleration" Barlow explains his reasons for this conclusion.

The reasons for holding that intolerance is dangerous are that scripture offers no precedent either by precept or practice and that force "cannot be a fit and congruous means to work faith and true Religion in erring persons."[128] First, Christ and His apostles converted pagans by preaching, reasoning, and leading exemplary lives, not by using force. If the objection is raised that scripture does contain such examples of violent punishment as Paul being struck to the ground and blinded, it can be answered by observing that at the time of his punishment Paul was not a Christian, while the present case concerns only Christian heresies. Paul, moreover, was engaged in persecuting the church, and Barlow has already granted that the magistrate must not tolerate any religion which threatens the peace of the established church. Besides, in the scriptural examples, violent punishments for impiety are administered not by a temporal magistrate but by God.[219] The other passage often cited as an instance of scriptural authority for religious compulsion is the parable of the marriage feast. To this Barlow responds: "*Locus parabolicus non est argumentativus*. Parables are no proofs." Besides, the parable does not illustrate physical compulsion but "the instance and importunity of the Call," and, instead of erring Christians, the parable concerns gentiles whom no one believes should be compelled to Christianity.[130]

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[127] Barlow, pp. 38-39.

[128] Barlow, pp. 52-53.

Not only is the Bible without example or precept advocating punishment for false religions, it specifically teaches the opposite, according to Barlow. When, for example, the disciples deserted Jesus, his only response was to ask "*will ye also go away*?"[131] Also, the parable of the wheat and the tares teaches that the heretics (tares) should be allowed to grow with the catholics (wheat) until the end of the world (the harvest).[132]

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[129] Barlow, pp. 41-46.

[130] Barlow, pp. 46-48.

[131] Barlow, p. 50.

[132] Barlow, p. 51.

The next argument in favor of tolerating dissent is that compulsion is inappropriate and ineffective. "Religion," Barlow maintains, "is seated in the Understanding and Will, things uncapable of force, or coaction."[133] Force can produce hypocrisy but not faith, and prisons make martyrs rather than converts. In fact, Barlow says, "The Massacre in France made more Protestants in one night, than all Calvin's Works have done since their first publication."[134]

The next section of Barlow's case demonstrates that temporal punishments are likely to be unjust as well as ineffective. Just punishment requires both "1. Cognitio culpae" and "2. Aestimatio poenae."[135] Not only the crime but the extent of the crime (that is, its magnitude, the degree of malice it involved and the extent of its consequences) must be known before a proportionate punishment can be decided upon. Knowing the degree of sin involved in erroneous opinions is difficult, if not impossible. Sin is always voluntary, and it is very difficult to determine whether an erroneous belief is caused by "weakness or wilfulness."[136] In addition, a violation of a positive law is sinful only when its promulgation has been sufficient. Since what is sufficient varies from person to person, knowing whether the Gospel has been promulgated sufficiently for any given person is difficult. Thus, knowing whether or not an erroneous opinion is sinful is extremely difficult.

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[133] Barlow, p. 53.

[134] Barlow, p. 55.

[135] Barlow, p. 56.

[136] Barlow, p. 57.

From this line of reasoning Barlow draws the conclusion that punishing heretics with death is absolutely unlawful. He then offers additional evidence against the death penalty based on the impossibility of fully understanding the sin. Theologians do not agree, argues Barlow, on what formally constitutes heresy, and it is "a strange piece of justice" which agrees to the punishment before it defines the crime.[137] The definitions of heresy which have been offered do not help to solve the problem. Some theologians hold that the essence of heresy is "pertinancy" or "contumacy"; others insist that a true heretic must be "self-condemned, incurable, incorrigible."[138] There are no external signs of either of these states; only God can judge contumacy or incorrigibility. Finally, some say that heresy is opposition to the articles of faith, but since men have never been able to agree on what the articles of faith are, killing men for holding contrary opinions is patently unjust.[139]

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[137] Barlow, p. 62.

[138] Barlow, pp. 62-63

At this point, Barlow pauses to anticipate a doubt or objection. "But if Heresie cannot be certainly known, why doth the Apostle say, *Haeriticum divita*."[140] Barlow approaches this objection first as a Biblical scholar. The interpretation of the text "*Haeriticum de Vita*" as a command to punish heretics with death is simply based on a mistranslation. The word is actually "*evita*" or "turn away from." The "old Monk" based his gloss on the Latin translation of the Greek, "for sure he was not guilty of much Greek, though the Latin was little beholding to him for mangling it so barbarously." There are still unanswered questions, however. How can we avoid heretics if we cannot identify them? How can the church justly impose spiritual punishments of penance or excommunication if the crime is unknowable? Barlow's answer is that in this passage St. Paul uses the word "heretic" to mean not simply one who holds an erroneous opinion, but, more specifically, one who is a schismatic, separating himself from the communion of the church and drawing others after him. Thus he openly disturbs the public peace, and we can easily identify his sin and should avoid familiarity with him.[141]

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[139] Barlow, pp. 64-65.

[140] Barlow, p. 65.

[141] Barlow, pp. 66-72.

The inconsistency apparent in Barlow's position that the church may justly inflict spiritual punishments but that the magistrate may not inflict temporal punishments because the sin is unknowable forces him to do some agile dodging. First, he sets up the objection in a way that is not really to the point. It might be argued, he suggests, that the primitive church excommunicated heretics as well as schismatics. He replies to this irrelevant argument with a flourish of moral tough-mindedness: "It will not hence follow, they did well and justly in doing so."[142] Having made this gesture, he immediately retreats and asserts that "the Church anciently did, and still justly may punish an "erring person with Excommunication" even though it cannot be certain just how guilty he is.[143] And so for some five pages Barlow insists both that the extent of sin is unknowable in cases of heresy and that the church may excommunicate any heretic who does not abide by the condition of his baptism and "those Fundamental Articles into the belief of which he was Baptized (though otherwise he lived never so peaceably.)"[144]

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[142] Barlow, p. 72.

[143] Barlow, p. 73.

[144] Barlow, p. 75.

At the end of his discussion, Barlow suggests that the church probably would be better off by refraining from persecution and that the genealogy of persecution should not recommend it to devout English Christians. The pure primitive church did not punish men for their opinions. Compulsion was practiced first by the Arians, then taken up by the Donatists, and then adopted by the church of Rome and the Mohammedans. Persecution is never the best way to make converts to the true religion:

> I confess the Body may be compell'd, the Feet to go to Church, the Ear to hear Prayers, Sermons, Disputations, the Hand to subscribe Articles and Canons, but all this (if the Heart and Hand do not go together) is so far from true Religion and Sincerity, that it is downright hypocrisie.[145]

His own analysis virtually completed, Barlow in the last ten pages of the case works through a series of authorities for toleration: Romans, church fathers, and imperial edicts. At the very end of the case he adds his own answer to another query. May the magistrate, while not compelling belief, compel his subjects to give the established religion a fair trial by, for instance, requiring that Papists attend sermons and disputations? Barlow's answer is that since the magistrate's responsibility is to bring his subjects to do their duty either by "suasory allurement" or "compulsory punishment," he may justly compel men to fulfill their duty of searching for religious truth by such compulsions.[146]

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[145] Barlow, p. 81.

Barlow concludes his case with a short note to Boyle, apologizing for presenting his defense of toleration "neither in a just order or method."[147]

III

The Casuistical Treatement

This summary of the case shows that it has clear similarities with the other cases of conscience we have examined. Again the casuist sets out to resolve doubts about the morality of a certain course of action by applying general moral principles to a particular problem in such a way that he illustrates a method of correcting a doubtful conscience in a certain area of human experience. The language and the evidence Barlow uses constantly remind us that he is presenting the relationship between church and state as an essentially moral problem. The Bible is the ultimate authority that he appeals to in demonstrating his decision that toleration is lawful. When he speaks of "lawfulness," he clearly means not simply English common law, but the whole hierarchy of divine, natural, and human laws which governs human conduct and the violation of which results not in conviction for crime, but in sin. Thus, instead of concentrating exclusively on the probable advantages resulting from the recommended action, as modern discussions of a proposed governmental policy usually do, Barlow's case presents the question as the genuinely perplexing problem of applying moral absolutes to an actual situation which they do not exactly fit. He assumes that in an ideal state the church and the nation would coincide. All citizens would be unified in a common worship in the one true church. Toleration is, in some sense at least, concession to evil. On the other hand, the use of force is alien to Christianity and experience shows that religious unanimity cannot be achieved without it.

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[146] Barlow, pp. 91-92.

[147] Barlow, p. 93.

Barlow emphasizes the problematical nature of his material to such an extent that he seems occasionally unwilling to commit himself. He asserts hypothetically the principle that the state must tolerate large dissenting groups or those with dangerous alliances abroad for the sake of public safety and order, but he refuses to state definitely whether or not England exemplifies this situation, deferring instead to the judgment of his betters. Again, in answering the central problem, he maintains consistently that toleration in some cases is lawful, but refuses to assert straightforwardly that refusal to tolerate would be unlawful:

> I shall not say, that it is absolutely unlawful for the Civil Magistrate (in this case) to use temporal, and compulsory, punishments, yet thus much...I think I may safely and truly say, that it will be very difficult and dangerous for him to do it.[148]

Even if he is timid about committing himself absolutely on some of the questions he raises, Barlow attempts throughout the case to allay any doubts about the lawfulness of the main action in question. His conception of his audience as sincerely doubtful men appears in this case, as it had in his earlier case on toleration, in his attempt to convince the doubting reason by piling up evidence, rather than to overcome moral apathy by eloquence. His style is temperate and measured, and the rhythm of his prose is interrupted by painstaking conditions and qualifications. He invokes an imposing array of theological authorities to add weight to his opinion, and he points to the process of the doubting conscience by using rhetorical questions and such headings as "Query," "Dub." and "Answer."

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[148] Barlow, pp. 38-39.

"The Case of Toleration in Matters of Religion" resembles the other cases of conscience we have seen not only in its concern with problematical moral action, but also in the particularity of its treatment of a moral question. Barlow devotes considerable attention in the case to the effect of circumstances on the moral nature of action. The express principle by which his analysis proceeds is that "the granting of such a Toleration (as almost all other humane actions) may be good or bad, according to the various Circumstances, and several Conditions."[149] He first decides that toleration should be granted in some cases on the basis of the relative strength "Of the Persons to whom the Grant is made" at "the time in which such Toleration is granted." He then decides against toleration in some cases because of the dangerous doctrines "Of the Religions tolerated." His major defense of toleration in the remaining cases depends on his analysis "Of the Power that grants." The church cannot inflict temporal punishments and has no power over any but her own flock. The secular authority can use force to protect the civil and ecclesiastical peace, but does not have the ability to recognize heresy and thus cannot punish it justly. Barlow does not draw up a detailed proposal for an ecclesiastical settlement, but he specifically names certain groups which should or should not be tolerated.

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[149] Barlow, p. 11.

Like Sanderson's cases and Barlow's earlier case on tolerating religious nonconformity, this case of conscience is presented as a letter addressed to a single man with moral doubts. The analysis which follows, however, is dry and impersonal in tone. "The Case of Toleration" with its hair-splitting logic, footnotes, and bibliography is not a specimen of the epistolary art. In fact, as we know from Birch, this case was not actually written to resolve the doubts of the man to whom it is addressed.[150] Barlow's decision, then, to retain the epistolary form suggests that he thought of it as characteristic of casuistry. The epistolary framework of the case of conscience may, of course, be no more than an extension of the dedicatory epistle ubiquitous in Renaissance literature. Casuists may use it out of coyness, implying that they are making their opinion public only because they have been implored to do so. These seventeenth-century divines were not particularly timid about presuming to preach to their fellow men, however, and their use of the introductory letter even when it was not directed to anyone of any particular eminence suggests that it had a further function in casuistry. The epistolary framework serves, I think, to place the entire analysis in the context of the individual conscience. The incongruity between Barlow's pedantic manner and his sketchy suggestion of a personal letter is symptomatic of the basic problem of the casuist: how to make his case helpful to men in general while demonstrating the principle that moral decisions are private by nature.

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[150] See my p. 316 .

Except for the introductory and concluding remarks to Boyle, little in this case directly reflects the concern for the individual conscience so characteristic of Sanderson's casuistry. Barlow's discussion of heresy demonstrates the casuistical principle that the state of the individual mind affects the moral nature of a given action. A man is guilty of heresy, Barlow contends, only when true doctrine has been sufficiently promulgated and he wilfully persists in error against his own better knowledge. This consideration of the contingency of morality on the individual conscience is peripheral, however, to the central problem. Barlow's analysis does not consider the state of conscience of the men who decide whether or not to tolerate false religions as having any effect on the lawfulness of their action. This difference between Sanderson's and Barlow's casuistry is probably partly a matter of personal emphasis, but, more important, it reflects the difference in the problems each considers. While Sanderson treats the dilemma of the individual within a framework of external authority, Barlow is concerned with establishing the morally right conduct of authority itself. The case on tolerating Jews and the case on tolerating Christian dissenters both offer an answer to the question of the responsibility of the Christian state in fostering a unified church and in dealing with those outside the church. They are not personal problems, except in the very real sense that decisions of policy for those who form them and for all responsible citizens are personal moral decisions.

That the case of conscience, which developed out of the need for direction when traditional institutions of moral guidance failed, should be extended to treat general, public as well as personal moral problems seems natural. And it is inevitable that these problems of national policy which Barlow treats require some modification of the procedure that Sanderson used so skillfully in resolving individual clergymen's crises of conscience. Barlow follows Sanderson in observing a rudimentary epistolary framework, in emphasizing the responsibility of the Christian conscience, and in portraying moral absolutes as functions of appropriate thought and action in particular circumstances in contemporary life. His tone, however, is never personal and his focus is always more directly on the problem than on the man making the decision.

Thus, Barlow's approach to the problem of unity and uniformity and the external characteristics of his style exhibit generic consistency just as they show that the case of conscience was not simply a mechanical formula but a literary form capable of responding to the different concerns of the various casuists who used it. The structure of "The Case of Toleration" also differs significantly from treatments of the problem in other genres. Discussions of religious dissent appear in many different forms. An Apologeticall Narration moves from personal narration, through a defense of the principles of congregationalism, to a fervent self-defense and plea for toleration.[151] Theomachia follows the traditional sermon structure of exordium, explanation of doctrine, confirmation, and application.[152] Roger Williams's The Bloudy Tenent is in the form of a dialogue between peace and truth. Harrington's Oceana is in the tradition of utopian literature, a description of an imaginary commonwealth. The structure of Chillingworth's The Religion of Protestants is largely based on the progression of thought in the work by the Jesuit he is refuting. Some of the works on the subject of toleration are clearly and carefully structured, and some have less neat organizational patterns. Nearly all of them, however, state their basic theses quite early and then assemble various proofs to substantiate them. Barlow's case stands out in this group because it develops its conclusion so gradually.

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[151] See my p. 151 .

[152] See my p. 152 .

Barlow seems to have structured his case in order to provide a model for the curing of a doubtful conscience. He first clarifies the question. Then he explains the "various circumstances and several conditions" which need to be considered before it can be answered and announces his intention of progressing towards an answer "by several steps and degrees."[153] He then moves from relatively easy cases, where he decides that toleration is either necessary or absolutely wrong, to the main question, where he first states his conclusion rather tentatively and then presents his evidence, drawn largely from scripture. As he proceeds to argue that compulsion "cannot be a fit and congruous means to work faith and true Religion," he changes the terms of the question slightly so that his conclusions become more vehement.[154] He asserts unequivocally that to punish heresy with death is unlawful, and he argues with convincing eloquence the impotence of force as a means of creating true faith. Thus, the case gradually builds from uncertainty and caution to assurance and forcefulness.

Although Barlow imitates the emotional progression from a doubtful to a sure conscience, he does not succeed in presenting a convincing demonstration of the removal of doubt. The question of burning heretics was not, after all, at issue, and Barlow's denunciations of fire and faggot do not contribute much to the discussion of whether or not fines or even imprisonment can be morally inflicted for refusal to conform to the established religion. Moreover, as we have seen, even staunch advocates of strict uniformity did not defend force as the best means of conversion. Force was always held to be a last resort for the protection of the true church, the faithful, and the heretic himself. In fact, in spite of his occasionally eloquent description of the futility of compelling the body when the mind is unwilling, Barlow's defense of toleration in this case is not impressive. He uses many of the current arguments on the topic, but his own argument is internally inconsistent and avoids many of the most important questions which it raises. His apologies to Boyle for the confusion in order, method, and evidence are understandable.[155] The "steps and degrees" by which Barlow moves to a resolution of the problem of toleration do not seem to be logically related. He never clearly states the general moral principles which are applicable to this particular case. He does not present a clearly reasoned and consistent defense of the lawfulness of toleration, nor does he envision any positive good inherent in the principle of tolerance. He assumes, as he did in the earlier case, that there is one true doctrine and one true discipline and that the civil magistrate has the power to demand conformity with the established and presumably true religion of the state. His argument for toleration is basically that exemption from the laws of uniformity is lawful because compulsion is an inappropriate and ineffective method of evangelism.

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[153] Barlow, p. 12.

[154] Barlow, pp. 52-53.

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[155] Barlow, pp. 4, 93.

In the beginning of the case, Barlow assumes without discussion the traditional idea of the desirability of an established state religion. He offers no proof but analogies for the first exception to enforced uniformity which he proposes, the necessity of tolerating large and powerful groups of dissenters which if repressed could threaten the peace and stability of the state. He does not explain or defend his implicit premise that civil peace is a higher good than religious unity. The same procedure is evident in Barlow's denial of impunity to groups which threaten civil or ecclesiastical peace or "approve and practice anything against the Law of Nature" which is "evidently dangerous to the well-being of humane Society."[156] Barlow asserts these principles as self-evident and supplements his assertions only by the analogy with physical disease and a brief reference to Seneca on natural law.

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[156] Barlow, pp. 30-31.

In the central section of the case, the treatment of "the main Query...Whether men of a false faith and heretical opinions, may be tolerated," Barlow supports his position more elaborately, analyzing the nature of punishment, interpreting scripture, and drawing arguments from Grotius, St. Augustine, the Church Fathers, and imperial edicts. But here his use of evidence is inconsistent. For example, he refutes an anticipated objection based on Luke xiv. 23 by saying "Parables are no proofs," and then turns around and argues four pages later that "our Saviour seems to resolve the case (in express terms)...in the Parable of the tares."[157] More significant than this contradiction in the use of scriptural authority, however, is the facile division Barlow makes between the problem of toleration with respect to the state and with respect to the church.

His recommendations for dealing with religious minorities which are not dangerously powerful or incompatible with natural law or civil and ecclesiastical peace depend primarily on his assignment of the problem to the power of the civil magistrate. This enables him to support the toleration of religious diversity within the state while defending the ability of the church to preserve uniformity within herself through the power of spiritual punishments. Barlow argues that the question of toleration must be decided by the temporal ruler, because dissenters need no toleration from the church, since the church can punish only those of her own body and dissenters do not recognize her authority. He does not, however, consider the problem of differences of opinion within the church nor admit at this point that not all dissenters are separatists. Later in the case he insists that the church may withhold from men who have broken the original conditions of baptism the ecclesiastical rights and privileges to which their baptism originally entitled them, whether or not they voluntarily separate from the church. But he also insists that the church is unwise and perhaps sinful in persecuting dissenters. What he means by persecution is not clear. Does he suggest a state in which various autonomous denominations enjoy control over their own, or is he trying to suggest a comprehensive established church which tolerates diversity in all but fundamental points of doctrine and discipline? Since the question of comprehension was crucial in 1660, Barlow's ambiguity on this point is a real limitation of his case.

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[157] Barlow, pp. 47, 51.

Another confusion in this treatment of religious toleration results from the distinction between heresy and schism. Barlow's argument that enforced conformity is unlawful depends largely on his proof of the impossibility of knowing the nature and extent of sin in heretical opinions. The Biblical injunction to avoid heretics, he explains, app;ies to those heretics who are also schismatics. Such a man "not only imbraces and maintains an erroneous opinion, but makes a schism in the Church by separating himself from the communion, and drawing others after him, and so disturbs the public peace." These schismatics are "confessedly punishable." Barlow advises that conscientious Christians should avoid familiarity with these men who "make a rent in the Church (_Pariter separant_) and so break the bond of Peace, and Ecclesiastical Union."[158] He then moves into his equivocal discussion of how schismatics should be punished by the church. They may justly be excommunicated, but the church should not persecute. Whether persecution includes ecclesiastical censure as well as temporal punishments to life and property is not clear. Again Barlow hedges about whether he has in mind a pure church of uniform doctrine and ritual or a comprehensive national church which encompasses various opinions and resorts to ecclesiastical censure only in extreme cases.

Even more important than his failure to commit himself about the church is the ambiguity which arises here about the lawful power of the magistrate to control erroneous religions. He argues that it is difficult and dangerous for the ruler to punish erring Christians, because there is no scriptural authority for compulsion and Christ's example is evidence for the opposite practice. Punishing justly is difficult because the degree of volition involved in the error cannot be known. Certainly the magistrate cannot punish heretics with death since heresy cannot be accurately defined. Schismatics, however, can be identified, although the precise degree of their culpability cannot be determined. Still, "neither Church or State can justly punish such persons with loss of Livelihood, Liberty, or Life."[159] Early in the case Barlow had argued that the ruler could not tolerate religions which endorse doctrines inimical to the peace of the state and the ecclesiastical settlement. In this section he seems to argue that the only heretics which can be known are those who separate and thus disturb the peace of the church and that they can justly be administered spiritual but not temporal punishments. Thus he maintains that the magistrate must prohibit religions which disturb the ecclesiastical establishment but should not punish people who disturb the ecclesiastical peace.

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[158] Barlow, pp. 68-72.

This conclusion is sensible enough from one point of view. Evidently, an inherently rebellious doctrine can be more dangerous than a single man who is dissatisfied with some point of doctrine or ritual in the established church and will not conform. A Puritan who refuses to use the Prayer Book but is otherwise loyal to the status quo may worship in a separate church without causing the political authority the worry that Jesuits and Quakers might. The problem here is not inconsistency in the solution the casuist reaches, but in the method of reasoning which leads him to it. He does not discuss how toleration of schismatics by the state relates to his earlier principle that for the king to tolerate religions which are destructive of the peace of the church is to "be cruel to the true, while,..he is kind to a false Religion."[160] Instead of considering the king's traditional responsibility to defend the true faith and strengthen the established church and his own acknowledgment that schismatics disrupt the ecclesiastical peace and draw others into error after them, he assumes that if the king punishes men for nonconformity he is doing so as punishment for heresy and in order to coerce them into the true faith. He does not, therefore, admit that the only consistent criterion by which he advises deciding the question of toleration is civil peace. He endorses persecution of some religions and toleration of others on this ground, but switches the basis of his argument in his general defense of a limited toleration to the impossibility of understanding the sinfulness of heresy accurately. This lands him in the dilemma of having to explain why the church may justly punish with less accuracy than the state.

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[159] Barlow, p. 73.

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[160] Barlow, p. 30.

In the attempt to reconcile this contradiction Barlow almost gives up the pretence of logical consistency, although he becomes more fervent and eloquent in his denunciation of bigotry and the spirit of persecution. As I noted before, Barlow's proof that heresy is unknowable and thus unpunishable by the ruler is based on the idea of sufficient promulgation and on the difficulty of defining heresy. All of the traditional definitions are useless for this purpose. Some theologians have held that heresy consists formally in contumacy; others require that a heretic must be "*self-condemned*, *incurable*, *incorrigible*"; and some say that a heretic must be "*contra Articulos fidei*." But Barlow astutely objects that no man can know whether another is incorrigible or guilty of contumacy and thatmen have not yet agreed on what the articles of faith are. Nevertheless, he defends the right of the church to excommunicate anyone who denies any of "those Fundamental Articles into the belief of which he was Baptized (though otherwise he lived never so peacably)."[161] Of course, it is possible logically to hold that we cannot be sure enough of the truth to punish heresy with death, but that we can ask those who do not agree with us on essentials to establish churches of their own. This, however, is not quite what Barlow says, and it does not harmonize with his position stated earlier that there is one true religion which should be protected by temporal authority.

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[161] Barlow, pp. 63-64, 75.

These timidities and inconsistencies in Barlow's argument do not necessarily detract from its value for our purposes. A second- or third-rate example can sometimes illustrate the essential characteristics of the genre more clearly than a more nearly successful one. Barlow's cases of conscience both exhibit at least superficially the concern for the individual conscience, the particularity of action, and the difficulty of moral decision, which we found to be characteristic of Sanderson's. While in Sanderson's cases of conscience, however, these features seem to be the realization in concrete form of a particular philosophy of the nature of moral law and human action, in Barlow the actual progression of thought does not embody the application of general moral principles to a unique and actual predicament.

In "The Case of Toleration in Matters of Religion" Barlow utilizes many of the arguments current in other contemporary discussions of the problem, but he fails to fit them together to construct a convincing model for the conscientious man to follow in resolving his doubts. He uses the parable of the wheat and the tares which we saw in The Bloudy Tenent, but he does not, as Roger Williams did, explain whether or not the tares, or heretics, should be allowed to grow in the visible church as well as in the world, or whether or not the parable teaches complete toleration or simply repudiates the death penalty. Barlow adopts the arguments, used so often by Falkland and Chillingworth, that the truth is so difficult to discover that magistrates and theologians are fallible and that "Religion is seated in the Understanding and Will, things uncapable of force, or coaction."[162] He does not, however, draw their conclusion that the church should limit itself to broadly defined fundamentals and avoid raising scruples.

Barlow is not concerned, as the liberal Anglicans were, to establish broad limits for a national church which could include all English Christians. He does not talk about the elusiveness of truth or the necessity for each man to search for the saving truth according to his own right reason. Nor does he question the power of the church to determine the one true religious doctrine. It is true that he acknowledges that magistrates have established false religions, but that does not lead him to conclude that there is no infallible arbiter of truth and hence no justification for religious uniformity. Instead, he explicitly defends the authority of the church to excommunicate men for doctrinal unorthodoxy. On the other hand, Barlow does not move in the direction taken by Puritans like Roger Williams who defend toleration by separating man's spiritual life from his secular life. He assumes that the magistrate has the power to establish a national church and the power to protect it by punishing any religions which threaten the ecclesiastical settlement. Although he writes in favor of toleration, he defines all knowable doctrinal errors as schismatic and disruptive of the peace of the state which the magistrate is responsible for preserving.

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[162] Barlow, p. 53.

Essentially, then, Barlow's position on unity and uniformity most closely resembles that of the Erastians. He defends the authority of the secular ruler to establish a uniform national religion. The magistrate's authority over religion rests not on responsibility to the truth, but on responsibility for maintaining the civil peace. Barlow makes a point of allowing the church greater power than the civil magistrate in cases of heresy, but since heresy becomes schism as soon as it is public, the magistrate's power over religious opinion is extensive. Barlow's support of toleration is finally that "a prudent Toleration...[is] a far more effectual means for the conversion of erring Christians, than the Severities of a Persecution" and that persecution causes trouble.[163] Private opinions which are held quietly are better left undisturbed, lest force turn them into open rebellion or martyrdom. Any unorthodoxy which causes trouble, however, may be punished by the magistrate, who may also compel men to receive instruction in the established religion.

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[163] Barlow, p. 56.

Thus, Barlow in fact subordinates the liberty of the individual conscience, the pursuit of truth, the unity of the church, and the preservation and propogation of true doctrine, all to the demands of civil peace. He does not, of course, assign the power of excommunication to the temporal ruler, but his solution to the problem of unity and uniformity is certainly Erastian in the sense that it subordinates the spiritual to the secular. Barlow himself would undoubtedly deny the truth of this analysis of his thought. He, in fact, explicitly repudiates Selden and Hobbes in the case on the Jews and quotes Falkland with approval in this case. This deference to a martyr in the royalist cause and denial of fellowship with notable Erastians, however, proves only what is already fully evident--Barlow was sensitive to the winds of political and ecclesiastical policy (too sensitive, indeed, to publish the case at all) and had to look for preferment in the church from men much more concerned about clerical prerogatives than he.

Barlow's subordination of spiritual and ecclesiastical concerns to secular ends explains, moreover, the inconsistencies in the work itself. In attempting to formulate an essentially Erastian argument for limited toleration in the form of the case of conscience which assumes the sovereignty of the individual conscience and the existence of universal moral laws which need only be applied with wisdom and discretion to particular people in particular situation, Barlow is committed to forcing together intrinsically incompatible material. He can impose the external characteristics of casuistry on his discussion, but he cannot actually demonstrate the process of discovering moral certainty. His attempt to appear as though he is doing so involves him in the inconsistent use of evidence and logical contradictions noted above.

Chapter VI

The Contribution of Jeremy Taylor

I

The Problems with Casuistry

The four cases of conscience which Robert Sanderson and Thomas Barlow wrote between 1650 and 1660 on problems growing out of the ideas of religious unity and uniformity reveal the strengths and weaknesses of the genre. The attempt to construct in prose an example of right reason making a moral decision in a difficult and complicated situation involves the casuist at once in intrinsically interesting and important material. His subject matter includes the human mind; the actual world of particular things, people, and events; and man's conception of divine, absolute truths transcending his own time and place. Like a philosopher, the casuist schematizes the ultimate truths of human existence. Like a journalist, he reports the minutiae of public life, and like a psychologist he studies the way men know and think and react emotionally. Like a poet, he presents the universal through the particular. The casuist is distinctive in his constant acknowledgment of the discrepancy between generalized rules of conduct and the actuality of a single human mind operating morally in a particular situation and in his form, which embodies the decision-making process.

This is not to say, of course, that the casuist always decides that the particular action he is examining is an exception to a moral law, although the cases by Barlow and Sanderson we have looked at in this study justify exceptions to the general requirements of unity and uniformity. Casuists may, and often do, decide that a proposed action is not lawful. Nevertheless, the very treatment of a problem in a case of conscience acknowledges that the application of general rules to particular situations is difficult and that genuine doubt can exist. Other types of Renaissance prose dealt with the relationship between universal truths and the complexity of particular situations, of course, but the combination of this concern with an explicit interest in the correct method of arriving at a solution to a perplexing problem seems to belong distinctively to the case of conscience. The casuist's preoccupation with generally established moral law andhis conception of the conscience as a function of the practical intellect do not lead him to rise to the heights of bold and original philosophic speculation or to explore the depths of human passion, but they allow him to organize in coherent fashion a significant kind of human experience.

Sanderson and Barlow both produced interesting, and occasionally moving, models of a sensitive and intelligent mind attempting to find order in the perplexing chaos of experience. They both, with different degrees of success and intellectual integrity, use the case of conscience to define the delicate balance between individual freedom and moral order with respect to a major political, ecclesiastical, and moral problem of their day, the question of religious unity and uniformity.

7 Their cases of conscience on this topic also reveal the very real limitations of the genre. The reader is annoyed by Barlow's parade of his erudition and his confusing display of schematizations whose appearance of logicality is merely illusory. Even Sanderson's cautious and deliberate examination of detail occasionally becomes tedious. More serious than the dangers of pedantry, however, is the tension in the case of conscience between the universal and the particular. The great strength of the case of conscience is its acknowledgment of the uniqueness of each particular moral decision with respect to the state of conscience and intention of the moral agent and the present circumstances and possible consequences of the proposed action. Yet the casuist, while professing the uniqueness of each case of conscience, must also try to create a model resolution of a problem which will apply to the problems of many men. In Sanderson, this attempt to universalize while

preaching particularity leads to the proliferation of exceptions and qualifications which can try the patience even of someone sympathetic with the intricacies of his problem. In Barlow, the uniqueness of personal experience is so subordinated to the action which the casuist recommends that the ideas and arguments in his cases differ very little from those of any polemic on the subject treated. As a result, the stylistic and structural features of the cases of conscience sometimes obscure rather than clarify what he actually has to say.

Closely related to the contradiction involved in supplying a general model for a process which was theoretically unique and personal is the problem of the relationship between the particular doubtful situation and the general moral laws by which it is resolved. As we have seen in Barlow's cases, problems of personal and of public morality imperceptively merge. The question of whether I may lawfully alter the liturgy established by the church is very close to the question of whether the church may lawfully compel me to use the liturgy it establishes. If the breakdown of traditional institutional channels for moral guidance created the need for casuists to treat the first kind of question, the experience of civil war and the virtual disintegration of traditional ecclesiastical authority created a need for answers to the second kind of question. Sanderson treats questions of the second kind in his sermons and lectures, but he does not organize cases of conscience around them. His center of reference is always the law of God, rather than the rights of a particular believer. According to Sanderson, the casuist's job is to discover whether or not a proposed action violates any of the laws--divine, natural, or human--which govern man's conduct. In the process of applying the various laws to particular problems involving the relationship of the individual to external authority, he allows a good deal of freedom to the individual Christian, but he never questions the authority of the traditional formulations of the law or the institutions of church and state which administer them. And Barlow too, even when he addresses a case of conscience to the lawful exercise of power, pretends that he is simply applying generally accepted moral norms to a particular problem. The case of conscience does not seem to be able to show the way to discover moral authority as well as to demonstrate the application of authority to particular problems of action. This limitation was particularly important at a time when some of the most significant and perplexing problems confronting men were which authorities to trust and how to interpret them. For example, such traditional authorities as natural law were invoked to justify everything from absolute monarchy to egalitarian states.[1] Casuistry needed, therefore, to enlarge its scope if it were to fill the conspicuous need in the moral lives of many conscientious but bewildered Englishmen. Jeremy Taylor tried to fill this need by providing in one comprehensive book a detailed explanation of the principles by which cases of conscience can be resolved, together with his resolutions of several hypothetical cases of conscience.

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[1] Margaret Judson, The Crisis of the Constitution (New Brunswick, N. J., 1949), p. 188.

Taylor's fame as a theologian and preacher must have caused many men to elicit his opinion on their cases of conscience. A few of these survive. In 1647 Taylor was one of a group of clergy to whom the King submitted the following case of conscience:

> Qu:
> Whither upon any necessity or exigence of state it bee lawfull for a Christian Prince, beside the Religion established, so to tolerate the exercise of other religions in his Kingdome, as to oblige himself not to punish any subject for the exercise of any of them?

The answer signed by, among others, Sanderson, Brian Duppa, Gilbert Sheldon, Henry Hammond, and Taylor, was a very grudging "yes."

> That
> Although every Christian Prince bee obliged by all just and Christian wayes to maintain and promote to his power the Christian religion in the truth and purity of it, yet in case of such exigence and concernment of Church and State as they cannot in human reason probably be preserv'd otherwise, We

> cannot say that in conscience it is unlawfull, but that a Christian Prince hath in such exigents a latitude alowed him, the bounding whereof is by God left to him.[2]

This statement on toleration, which suggests the possibility of the King's making concessions to the Independents, clearly contrasts sharply with the more generous attitude toward toleration which Taylor announced publicly the same year in The Liberty of Prophesying.[3] Which of the two expressed Taylor's attitude more accurately is difficult for us to know. His public championship of liberty of conscience was undoubtedly influenced by his desire to secure toleration for Anglicans.[4] On the other hand, his part in and the nature of his assent to the ambiguous reply to the King is not clear. One of the two extant copies is in Hammond's hand. Taylor had already aroused suspicions of his orthodoxy by his gentle treatment of the Anabaptists in The Liberty of Prophesying and he was later to invoke the wrath of most of his friends by his interpretation of original sin.[6] Hammond and Sheldon kept a close watch on the orthodoxy of the Anglican clergy, and it is unlikely that they would have looked favorably on any demurrals from the cautious and qualified resolution of the King's query. At any rate, whatever the King's case of conscience suggests about Taylor's belief in toleration it indicates very little about his skill as a casuist except that he was well enough regarded to be included among those who considered it.

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[2] Tanner MS 58 f. 454, printed in The Works of Robert Sanderson, ed. William Jacobson, VI, 459-460.

[3] G. M. Trevelyan, England Under the Stuarts, 13th ed. (London, 1926), V, 284-285.

[4] Robert Martin Krapp, Liberal Anglicanism: 1636-1647 (Ridgefield, Conn., 1944), pp. 105-106; H. Ross Williamson, Jeremy Taylor (London, 1952), p. 45 ff.

[5] C. J. Stranks, The Life and Writings of Jeremy Taylor (London, 1952), p. 73.

The other records we have of individual cases of conscience are various. While Taylor was a young parish priest, a lady with doubts about the position of the Church of England consulted him and he "enjoined her penance," but she saw in his study "a little alter with a crucifix upon it" and converted to Rome anyway.[7] In 1648 Taylor wrote to Dr. Bayly answering a question about the lawfulness of a king's alienating church lands. Taylor's answer is that in certain circumstances a king has the lawful power to do so.[8] This case is important to us only in that it indicates Taylor's interest in cases of conscience which concern the moral use of governmental power and his willingness to concede power to the king in his relations with the church.

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[6] Jeremy Taylor, The Whole Works, ed. R. Heber, rev. C. P. Eden, Vol. IX, ed. Alexander Taylor (Oxford, 1854), I, xxx.

[7] W. J. Brown, Jeremy Taylor (London, 1925), pp. 18-19.

[8] Taylor, Works, I, cclxiii-cclxxiii.

There is also a letter from Taylor to John Evelyn resolving some doubts about the lawfulness of taking interest on money and a letter to Mrs. Katherine Phillips, "the matchless Orinda," who wrote to Taylor inquiring about the lawfulness of friendship for a Christian.[9] Neither of these has any bearing on the casuistical treatment of unity and uniformity, but they illustrate the adaptability of the case in Taylor's hands. Evelyn's question and Taylor's answer are both of a fairly common sort, but while Katherine Phillips' questions were "rather of the kind which a good many divines with a reputation for skill in casuistry were wont to receive," Taylor's reply was not the usual intricately constructed theological argument, but a graceful and courtly essay on friendship.[10]

In addition to these cases of conscience which were written for the benefit of a single inquirer, Taylor's interest in casuistry reveals itself in many of his published works.

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[9] Taylor, I, lxxviii-lxxvix; "A Discourse of the Nature and Offices of Friendship," I, 69-98.

[10] Stranks, p. 174.

The chapter on justice in Holy Living has been called an example of "casuistry in its highest and noblest sense," and the chapters on forgiveness and repentance in The Worthy Communicant are developed through discussions of cases of conscience relating to these duties.[11] Taylor's interest casuistry, however, finds its fullest expression in Ductor Dubitantium.

This monumental work of casuistry was the book on which Taylor assumed his reputation would rest.[12] As early as 1652 or 1653 Taylor consulted Brian Duppa about the "cases of conscience" on which he was working.[13] As he struggled with the problems of casuistry, he discovered that he could not deal satisfactorily with the problem of erring and doubtful consciences until he had clarified the doctrine of repentance. Thus he published Unum Necessarium in 1655 as a preliminary study to Ductor. His basic thesis in Unum Necessarium is that true repentance is a necessary pre-requisite to a holy life and that a holy life is the surest sign of true repentance.[14] Taylor's discussion of repentance involved him in a discussion of original sin in which his views diverged dangerously from orthodoxy; the consequent suspicion of heresy severely handicapped him in his ecclesiastical career.[15] The controversy which Unum Necessarium provoked dampened the enthusiasm of Taylor's publisher for the work on casuistry, which was unlikely to be a commercial success in any event, and he repeatedly postponed publication.[16] Finally, in the surge of royalist and Anglican sentiment with the return of the king, Ductor Dubitantium was published in 1660 with a dedicatory letter to Charles II.

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[11] Quoted in Edmund Gosse, Jeremy Taylor (London, 1904), p. 72. These works discuss principles of virtuous conduct and use some of the methods and techniques of casuistry, but their primary purpose is to encourage the discipline of the soul, "to incite devotion" rather than to consider difficult moral problems. Taylor, VIII, 4.

[12] Taylor, I, lxxii.

[13] Stranks, p. 142.

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[14] Taylor, VII, 13-14.

[15] Ironically, Sanderson, who defended individual freedom in the matter of the liturgy and the engagement, condemned Taylor's interpretation of original sin and his obstinacy in refusing to retract his views and conform to orthodoxy. Sanderson maintained that Taylor ought to modify his position publicly in order to prevent the "Scandal that may be given to the enemies of our Church and Religion, when they shall take notice that amidst the throng of so many sects and confusions as are among us, those that profess themselves to be the regular and obedient sons of the Church, cannot accord amongst themselves, but clash against and fall foul upon one another, and that in points of great importance." Sanderson does not recommend that Taylor be refuted by name since that would create even more scandal and advises instead that if he will not retract the whole thing, as he should, then he should at least "qualify it by some such explications, as might tolerably reconcile it with received opinions." Sanderson explains ironically that Taylor's position is so heterodox that such a reconciliation could hardly satisfy a rational man, but that the attempt might alleviate "some of the scandal and evil effects.... Especially considering how expert he is and versute in that artifice of drawing any thing, though apparently never so distant therefrom, to a seeming compliance with his own tenents." Sanderson, Works, VI, 381-389. Such a proposal seems to have been made by Sheldon to Taylor, who rejected it. Taylor, I, lvi-lvii.

Taylor knew Sanderson and Barlow well and was acquainted with their work, but his own contribution to casuistical literature differs significantly from theirs. As I suggested earlier, Ductor combines model cases of conscience with the kind of discussion of theological background which Sanderson had set forth in his lectures on the conscience and the obligations of oaths. Barlow's cases and Sanderson's were, as we have seen occasional. Collections of cases, such as those of Joseph Hall, were usually arranged according to subject matter and limited to questions of private rather than general, public action. Hall's cases, for example, are divided into four groups of ten cases each: "cases of profit and traffic," such as "Whether I may sell my commodities the dearer for giving days of payment"; "cases of life and liberty," such as "Whether a man, adjudged to perpetual imprisonment or death, may in conscience, endeavour and practice an escape"; "cases of piety and religion," such as "Whether reserving my conscience to myself, I may be present at an idolatrous devotion"; and "Cases matrimonial," such as "Whether marriage lawfully made, may admit of any cause of divorce, save only for the violation of the marriage-bed, by fornication or adultery."[17] Another common method was to organize a collection of cases into groups of cases on man's relationship to society, his family, and his God.

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[16] Gosse, pp. 145, 161.

Taylor's modification of the usual forms of casuistry results, I think, from an attempt to overcome the weaknesses inherent in the genre. English casuistry, Taylor explains, is defective first of all because there simply is not enough of it: "for any public provisions of books of casuistical theology, we were almost wholly unprovided."[18] Taylor's concern for the realization of Christian faith in the conduct of the believer had already found expression in his famous devotional works, Holy Living and Holy Dying, but those are not essentially casuistical. In them, Taylor's purpose is to help men to achieve the habits of mind which can result in the practice of holiness.[19] He reports in Ductor that he formerly saw little need for works of moral theology beyond inducements to personal piety, because the fundamental tenets of Christian behavior are few and can be known to all men who sincerely try to understand God's will.

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[17] Joseph Hall, Works, rev. ed. (Oxford, 1837), Vol. VII.

[18] Taylor, IX, v.

[19] Helen C. White, English Devotional Literature 1620-1640 (Madison, Wisc., 1931), p. 263.

> But when I came to look a little nearer, I found that men were willing enough to be tied up to believe the unactive propositions of the doctors, but would keep a liberty of pleasing themselves in matters of life and conversation: in the former they would easily be governed by leading men; but in the latter they would not obey God himself, and without great regret would not be confined to strictness and severity in their cases of conscience.[20]

Cases of conscience, then, supply a need not met by other forms of moral theology because they remain in contact with the concrete particularity of active experience. Human perversity and the complexity of actual situations are so great that the application of Christian principles in practice can be extremely difficult. Ultimately each man is responsible for his own actions, but he may well need a casuist to guide him in particular dilemmas.

Casuistry needed also, Taylor thought, to be set upon firmer foundations by a clarification of its theological basis, "because in these things an error leads on to evil actions, to the choice of sin, and the express displeasure of God; otherwise than it happens in speculation and ineffective notices and school-questions."[21] By idle speculation and intellectual pride, men have made difficult what God has made simple. Since the virtue of a man's life depends on his motives and his understanding of what he does as well as on the intrinsic nature of his actions, the principles of virtuous conduct need to be clear. The Church of England, according to Taylor, had been "unemployed in the description of the rules of conscience and casuistical theology."[22]

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[20] Taylor, IX, xii.

Man needs, moreover, a guide in matters relating to the church and state, as well as in dilemmas which arise in the conduct of his private life and the intricacies of moral theology, because all things which relate to the conduct of men "belong to the conscience and its measures."[23] Finally, there is a need for casuists to serve the rulers of church and state as well as private citizens, for although Hooker treated "those cases that concern the power and offices of ecclesiastical superiors and supreme," his work was lost.[24]

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[21] Taylor, IX, xi.

[22] Taylor, IX, ii.

[23] Taylor, IX, xv.

[24] The seventh book of *Of the Laws of Ecclesiastical Polity* was not printed until 1662.

Thus, Taylor saw the need for an ambitious work of casuistry which would explain the general principles by which moral conduct could be discovered, which would give proper weight to the diversity of particular circumstances and individual consciences, and which would serve as a guide in problems of national as well as personal scope. In the preface, he laments that this is an onerous task, too great for any one man, but he offers Ductor Dubitantium as his effort to begin the work.[25] He does not propose that every man with a moral question should read his ambitious attempt to provide a systematic and comprehensive approach to casuistry. His work is clearly designed to help the clergymen who tried to follow Herbert's advice in acquiring that skill which develops "the great ability of a Parson to lead his people exactly in the wayes of Truth."[26]

Taylor, it may be added, was well aware of the uniqueness of his goal and the originality of his form:

> But now I shall desire that he who reads my book will not expect this book to be a collective body of particular cases of conscience; for I find that they are infinite, and my life is not so, and I shall never live to write them all, or to understand them all: and if I should write some and not all, I should profit I know not whom, and do good but to a very few, and that by chance

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[25] Taylor, IX, xiv.

[26] George Herbert, The Works of George Herbert, ed. F. E. Hutchinson (Oxford, 1941), p. 230.

> too; and it may be that their cases being changed by circumstances would not be fitted by my indefinite answers. I therefore resolved upon another way, which although no man before me hath trod in writing cases of conscience, yet I cannot say it is new; for I took my pattern from Tribonianus the lawyer, who out of the laws of the old Romans collected some choice rules which give answer to very many cases that happen. And after I had considered and tried many others, I found this most reasonable, most useful, and most comprehensive, of all matters relating to my present undertaking. For I intend here to offer to the world a general instrument of moral theology, by the rules and measures of which the guides of souls may determine the particulars that shall be brought before them.[27]

II

Ductor Dubitantium

The result of Taylor's long labor to correct the deficiencies in the casuistical divinity of the Church of England has not been received with noticeable enthusiasm. Gosse thought that this "most elephantine of all theological works" was merely "the result of twenty years of cases noted in a succession of pocket-books." The collection of cases, he conceded, would be "an entertaining miscellany of stories" if it were not so long and if it did not include such "indiscreet and embarrassing" discussions of sexual problems.[28] Other biographers have reached a somewhat higher opinion of it as an occasionally interesting and provocative monument to Taylor's industry and erudition, although they agree that posterity has done Taylor a service by reading his sermons and devotional works and not trying to "read through systematically the one thousand and three hundred and sixty-three pages" of Ductor Dubitantium.[29] While Gosse found the narratives of the cases themselves the only merit of the work, W. J. Brown and H. T. Hughes have concluded that its most distinctive feature is a clear enunciation of general principles.[30] Taylor himself claimed, in the passage quoted above, that he was presenting not a collection of cases but "a general instrument of moral theology," but H. R. McAdoo complains that Taylor's sound theology and casuistical principles are obscured by his "positively feminine garrulity" in recounting thousands of intricate hypothetical cases.[31]

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[27] Taylor, IX, xix-xx.

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[28] Gosse, pp. 120, 165-166.

[29] Brown, pp. 179-180; H. T. Hughes, The Piety of Jeremy Taylor (London, 1960), p. 48.

[30] Brown, pp. 179-180; Hughes, p. 48.

[31] H. R. McAdoo, The Structure of Caroline Moral Theology (London, 1949), p. 67.

In view of Taylor's stated intention of providing the world with "a general instrument of moral theology" and the ambivalence of the response to it, we need, I think, to look at Ductor Dubitantium as a whole before we can narrow our focus to Taylor's casuistical treatment of unity and uniformity.

In the preface Taylor explains his general approach to his subject as well as his intention. In all fundamental matters, his authorities are scripture and right reason. When there are questions which these highest authorities do not answer plainly, he appeals to tradition: the laws, lives, and writings which embody the wisdom of the past.[32] Taylor also announces the assumptions underlying his casuistical method by enumerating the "general measures [which are] to be as boundaries to the determination of doubts and the answer of questions" before he actually plunges into the intricacies of his material:

> 1. In hard and intricate questions I take that which is easy and intelligible, and concerning which it will be easy to judge whether it be right or wrong. 2. In odious things, and matters of burden and envy, I take that part which is least, unless there be evident reason to the contrary. 3. In favours I always choose the largest sense, when any one is bettered by that sense, and no man is the worse.

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[32] Taylor, IX, xvi.

> 4. In things and questions relating to men I give those answers that take away scruples, and bring peace and a quiet mind. 5. In things relating to God I always choose to speak that thing which to Him is most honourable. 6. In matters of duty I always choose that which is most holy. 7. In doubts I choose what is safest. 8. In probabilities I prefer that which is the more reasonable, never allowing to any one a leave of choosing that which is confessedly the less reasonable in the whole conjunction of circumstances and relative considerations.[33]

These rules tell us succinctly a good deal about Taylor's casuistry. He announces first that he will approach difficult questions with common sense and charity (rules 1, 2, and 3). He desires to honor God and to teach holiness (rules 5 and 6). He will try to uphold a rigorous moral standard, but not to encourage morbid, guilt-ridden hypersensitivity (rules 4 and 7). He will weigh evidence as a probabiliorist, not as a probabilist (rule 8).[34]

Taylor uses the preface also to discuss his procedure as a writer. He has adorned his general principles with cases of various kinds. Sometimes the cases are briefly stated, and sometimes they are elaborated in stories. Sometimes they are true, and the casuist has merely changed the names to protect the not-so-innocent. Sometimes he has borrowed cases, and sometimes he has invented them to serve the needs of his overall design. But all of the cases, Taylor declares, are to be judged by the truth, reason, and piety of his resolutions.[35] For this reason, he has avoided difficult and exotic cases which demonstrate the virtuosity of the casuist but do not teach holiness: "A slight answer to an intricate and useless question is a fit cover for such a dish; a cabbage leaf is good enough to cover a pot of mushrooms; but I have taken a shorter way, and laid them all aside."[36]

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[33] Taylor, IX, xvi. I have substituted numbers for the Greek letters in the original for convenience.

[34] See my p. 68.

Taylor professes that his style is determined by like considerations. He is trying "to convince, not to exhort" and must speak to the understanding, not the emotions. Thus he adopts a style that is not "fierce, positive, and decretory" but is "according as it happens, sometimes plain, sometimes closer."[37]

The work itself consists of four books organized around the central areas of casuistical thought: the conscience, divine law, human law, and the moral nature of human action. In the first chapter of Book I, Taylor defines and describes the conscience very much as Sanderson did. "Conscience is the mind of man, governed by a rule, and measured by the proportions of good and evil in order to practice."[38] The function of the conscience is to dictate God's will to man and to testify to the moral nature of man's actions in his relations with God, his neighbors, and himself. Since the conscience is the image of God in man, the conscience must rule all of his actions. To act against the conscience is to sin against the conscience, and to sin against the conscience is to sin against God. The conscience, each man's understanding of God's law, supersedes all other authorities. The law of God must be preferred to the law of man.

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[35] Taylor, IX, xvii.

[36] Taylor, IX, xix.

[37] Taylor, IX, xvii.

Conscience has essentially two parts. It is the synteresis, "the treasury of divine commandments and rules in practical things," and it is the syneidesis, the judge that applies these rules to conduct.[39] Taylor describes the operation of the conscience in two interlocking syllogisms, just as Sanderson did:

> But the whole process of conscience is in two practical syllogisms, in which the method is ever thus. The... 'repository' of practical principles begins, and where that leaves, the conscience or the witness and judge of moral actions begins, like Jacob laying hold upon his brother's heel. The first is this:

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[38] Taylor, IX, 3,

[39] Taylor, IX, 8.

> Whatsoever is injurious ought not to
> be done;
> But to commit adultery is injurious,
> Therefore it ought not to be done.
>
> This is the rule of conscience, or the first act of conscience as it is a rule and a guide....or practical 'repository.' But when an action is done or about to be done, conscience takes the conclusion of the former syllogism, and applies it to her particular case.
>
> Adultery ought not to be done;
> This action I go about, or which I
> have done, is adultery,
> Therefore it ought not to be done, or
> have been done.
>
> This is the full proceeding of this court; after which many consequent solemnities and actions do pass, of sentence, and preparatory torments and execution.[40]

Thus, Taylor's description of the conscience is basically identical with Sanderson's. Taylor, however, is much more interested than Sanderson in the emotional and psychological effects of the conscience. As witness and judge, a man's conscience, "the looking-glass of the soul," not only accuses or excuses, but it also punishes or frees him. A troubled conscience very often punishes man by its indescribable "accusations and vexings" when other calamities like sickness or poverty have fallen upon him. "Then every bush is a wild beast, and every shadow is a ghost, and every glow-worm is a dead man's candle, every lantern is a spirit." Other effects of an evil conscience are the secret shame which it inflicts and the confusion which results when the "secret tormentor shakes the mind and dissolves it into indiscrimination." It also makes sinners afraid of men and of God, turning men into cowards, and produces a constant turmoil and restlessness, which, like the vulture in the Aeneid, "gnaws perpetually, and consumes not, being like the fire of hell, it does never devour but torments for ever." On the other hand, a good conscience is the "most certain, clearest, and undisturbed felicity."[41]

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[40] Taylor, IX, 14-15.

Taylor does not, however, contend that man can rely on these signs. Some men do not suffer in this world for their evil, but "such men have an evil portion, they sing in the fire, and go dancing to their graves, and sleep on, till they be awakened in hell."[42] Moreover, man must be careful that he does not mistake his prejudices and emotions for the testimony of his conscience or religious understanding. Men plead their consciences to justify their own vices so that

> suspicion, and jealousy, and disobedience, and rebellion, are become conscience; in which there is neither knowledge, nor revelation, nor truth, nor charity, nor reason, nor religion.[43]

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[41] Taylor, IX, 23, 24, 27, 31.

[42] Taylor, IX, 43.

[43] Taylor, IX, 36.

Passions and illusions, however, can influence the conscience, and, since we must follow our consciences even when they are deluded by error or passion, it is extremely important that the whims and fancies of the affections be controlled and not be allowed to deceive the conscience. Taylor offers four rules to help guard against this disaster. First, we should suspect our conscience if we are unwilling to inquire into the case. "He that searches desires to find, and so far takes the right course; for truth can never hurt a man, though it may prejudice his vice and affect his folly."[44] Second, inquiring into particulars only after we have firmly resolved upon a conclusion probably indicates that we are not really searching for truth, but trying to confirm our own opinion. Third, we should ask advice of wise men instead of following the crowd. And fourth, we should examine our decisions when they apparently serve selfish ends.

Although each man is bound by his own conscience, the moral order which obliges the conscience is the same for all men. The infinite variety of cases is due to differences in circumstances and not to moral relativity. What is just for one man would be just for all men in like circumstances.

> But men are infinitely differenced by their own acts and relations, by their understandings and proper economy,

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[44] Taylor, IX, 37.

> by their superinduced differences and orders, by interest and mistake, by ignorance and malice, by sects and deceptions. And this makes that two men may be damned for doing two contradictories: as a Jew may perish for not keeping of his sabbath, and a Christain for keeping it.[45]

In applying a universal moral law to his own situation, one should remember that intellectual sophistries are as misleading as emotional vagaries. The commandments of God should be interpreted always according to the "natural and proper sense of the words." Even in interpreting scripture, which is clearly metaphorical, "the prime and most natural signification is best."[46] Artful men can make the clearest issues seem complex, but they are wrong:

> If none but witty men could understand their duty, the ignorant and idiot could not be saved; for in the event of things, it will be found, that this man's conscience was better guided while simplicity held the taper, than by all the false fires of art, and witty distinctions.... It is safer to walk upon plain ground, than with tricks and devices to dance upon the ropes.[47]

Having explained the operation of the conscience in general, at the end of the first chapter Taylor explains the five kinds of consciences: the right or sure conscience, the confident or erroneous conscience, the probable or thinking conscience, the doubtful conscience, and the scrupulous conscience. In the rest of Book I, he devotes a chapter to each of these types.

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[45] Taylor, IX, 43.

[46] Taylor, IX, 45.

[47] Taylor, IX, 46.

Chapter II opens by defining a right conscience as "right reason reduced to practice." The conclusion reached in the first part of the act of judgment, the first of the two syllogisms described in Chapter I, may be merely based on highly probable arguments, since "in moral things there cannot ordinarily be a demonstrative, or mathematical certainty."[48] The conclusion that a certain action is lawful, however, must be completely certain in a right or sure conscience. There can be, in addition, no contradiction between the judgment of the practical understanding of the conscience and the judgment of the speculative understanding. Two kinds of men, Taylor says, have attempted to divorce the conscience from the speculations of the reason, maintaining that "our reason is blind in things divine, and therefore is of little or no use in religion."[49] Roman Catholics denigrate reason in favor of authority. Puritans repudiate reason and pretend the spirit of God or scripture "to be the author of all their theorems."[50] Taylor devotes most of Chapter II to defending the role of reason. It is true, he argues, that the mysteries of faith exceed the reach of human reason, but it is also true that faith does not contradict reason. Any proposition which is against reason is also against faith.[51] Indeed, we accept scripture as the word of God and learn to value tradition on the authority of our reason. "The authority of scripture is super-induced, but right reason is the eternal word of God."[52]

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[48] Taylor, IX, 50, 51.

[49] Taylor, IX, 55.

By right reason, of course, Taylor does not mean simply the ratiocinative faculty, opposed to faith. Indeed, "faith is but one way, by which our reason is instructed." Reason, he says, has three ways of apprehending: by "the first notices of things abstract," such as "good is to be chosen: by discourse, which draws consequents from these principles; and by "such things which the understanding assents to upon the report, testimony, and affirmation of others."[53] For example, by natural, abstract reason, man knows that "a false god is nothing." From this he infers that idols should not be worshipped. That idols are to be destroyed he knows "from God, by the testimony of Moses, into the notice of which [he is] brought by collateral arguments, by tradition, by miracles, by voices from heaven, and the like."[54] Thus it is that "into the greatest mysteriousness of our religion, and deepest articles of faith we enter by our reason."[55]

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[50] Taylor, IX, 58.

[51] Taylor, IX, 71.

[52] Taylor, IX, 69.

[53] Taylor, IX, 59.

In a right conscience, then, the speculative and practical understandings are in harmony, and the practical understanding is completely persuaded of the lawfulness of the actions it recommends. Any man who willfully acts in practice contrary to his right reason sins. In fact, a man who performs an innocent action without sufficient deliberation, according to his capabilities and the nature of the situation, is not demonstrating a right conscience.

Chapter III discusses the confident or erroneous conscience which "commands us to do what we ought to omit; or to omit what we ought to do, or to do it otherwise than we should."[56] The conscience errs either by accepting a false proposition or by applying a true proposition falsely, and the most common causes of errors are ignorance, fear, and abjection of mind. Even an erring conscience, however, must be obeyed, since the will sins unless it chooses the good which is propounded to it by understanding. "He that does a good thing which he believes to be evil, does choose the evil, and refuse the good."[57] If by obeying an erring conscience, however, one performs evil, he is not excused because he was following his conscience. Conscience may make a good action evil, but it cannot make an evil action good, for "bonum ex integra causa, malum ex qualibet particulari.... All must enter into the constitution of good, though the want of one is enough to spoil it."[58] If an erring conscience merely commands an indifferent action, man may obey his conscience without sin. When the erring conscience commands an evil action, however, man sins whatever he does. An erring conscience can be reformed, Taylor recommends, usually through rational persuasion.

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[54] Taylor, IX, 60.

[55] Taylor, Ix, 61.

[56] Taylor, IX, 126.

His last rule for dealing with erring consciences, however, is the qualification that the spiritual guide must leave errors alone when to expose them would cause great harm. He illustrates this principle by a "rare case happening in Venice."

A man, it is told, unknowingly impregnated his mother, who sent him away to travel while their child grew into a lovely young woman. The man returned, fell in love with and unwittingly married the girl, over his mother's vehement protests. The mother's conscience finally sent her with the whole story to her confessor, who concluded that she should not reveal the truth,

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[57] Taylor, IX, 129.

[58] Taylor, IX, 132.

> lest she bring an intolerable misery in the place of that which to them was no sin; or lest upon notice of the error they might be tempted by their mutual endearment and their common children, to cohabit in despite of the case, and so change that into a known sin, which before was an unknown calamity; and by this state of the answer, they were permitted to their innocence, and the children to their inheritance, and all under the protection of a harmless though erring and mistaken conscience.[59]

The next type of conscience is the probable or thinking conscience, in which the assent to the final conclusion of the double syllogism is imperfect. A man with a probable conscience may be sure enough to act innocently because his conclusion is based on probable reasons, but he thinks that it is possible that he may be wrong. We must realize that sometimes false things appear more probable than true, but that if it were not possible to act innocently except with the perfect assurance of the right conscience, in many cases it would not be possible to act at all. The man who always demands conclusive demonstration of every moral question asks the impossible. The wise man knows, as Aristotle said, "'that is well enough proved, that is proved according to the subject matter.'"[60] In moral things, Taylor explains, "it is sufficient that a thing is judged true and certain, though by an uncertain argument; and the opinion may be practically certain, when the knowledge of it is in speculation only probable.[61] Thus, an accumulation of probable arguments may change a probable conscience into a right conscience.

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[59] Taylor, IX, 149.

> Probable arguments are like little stars, every one of which will be useless as to our conduct and enlightening; but when they are tied together by order and vicinity, by the finger of God and the hand of an angel, they make a constellation, and are not only powerful in their influence, but like a bright angel to guide and to enlighten our way. And although the light is not great as the light of the sun or moon, yet mariners sail by their conduct; and though with trepidation and some danger, yet very regularly they enter into the haven. This heap of probable inducements is not of power as a mathematical and physical demonstration, which is in discourse as the sun is in heaven, but it makes a milky and white path, visible enough to walk securely.[62]

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[60] Taylor, IX, 151.

[61] Taylor, IX, 151.

[62] Taylor, IX, 155.

Taylor demonstrates this proposition by one of the few well known passages in Ductor Dubitantium, his eloquent "moral demonstratinn" or "conjucation of probabilities proving that the religion of Jesus Christ is from God."[63]

In the rest of Chapter IV Taylor explains the rules by which a probable conscience may direct action lawfully. While in a sure conscience the speculative and the practical judgment are united, in a probable conscience what is speculatively probable may not be practically probable. For example, "when Lamech perceived something stir in a bush, it was very probable it was a wild beast; when he came to reduce his opinion to practice, he shot at it and killed a man."[64] The next rule for the probable conscience is that when two contradictory opinions are equally probable, we are to choose the one based on reasons which are safer or farther from sin. In some cases, we should choose the less probable when it is farther from sin. Thus, it is more probable that one does not have to make restitution of gains from usury, but it is safer to do so. In cases which do not clearly have greater charity on one side or the other, the more probable conclusion must be followed. As mentioned above, Taylor classifies himself as a probabiliorist by this decision. He refutes with some care the arguments of the probabilists that man may lawfully perform an action for which there is some probable or reasonable support, but he qualifies this rule by allowing the choice of the less probable opinion in cases of great necessity or charity. When two opinions are equally probable and neither is clearly based on reasons of greater piety, then the choice is to be made on consideration of circumstances. Although some men say that in such cases the understanding must remain suspended between the two equally probable opinions, Taylor argues that to suspend judgment is in fact to choose one of the opinions and that instead one should weigh "accidents, circumstances, and collateral inducements" and then act.[65]

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[63] Taylor, IX, 156-178.

[64] Taylor, IX, 183.

The fourth type of conscience which Taylor describes is the doubtful conscience, which is similar to the probable conscience. Sanderson treats them as one, and although Taylor discusses them separately the material in the two chapters frequently overlaps. The main difference between the two types is that while neither can fully assent to either side of a question, the probable conscience can choose while the doubtful conscience cannot. Since the understanding remains undecided, a doubtful conscience cannot direct the will and bind men to action. On the contrary, a doubting conscience

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[65] Taylor, IX, 181.

"binds from action; for whatsoever is done with a doubting conscience (that is, without faith, or fulness of persuasion that it is lawful to do it) is sin. S. Paul gave us the rule, 'Whatsoever is not of faith is sin.'"[66] In cases of what he calls negative doubt, where there is no means to resolve the question, Taylor maintains that one does not need to inquire further. In cases involving questions of present duty, however, one must try to resolve his doubts in the manner described in the chapter on the probable conscience:

> When the conscience is doubtful, neither part can be chosen till the doubt be laid down; but to choose the safer part is an extrinsical means instrumental to the deposition of the doubt, and changing the conscience from doubtful to probable.[67]

The last chapter of the first book of Ductor Dubitantium is devoted to the scrupulous conscience. Taylor defines a scruple as "a great trouble of mind proceeding from a little motive, and a great indisposition, by which the conscience though sufficiently determined by proper arguments dares not proceed to action, or if it do, it cannot rest." Very often these scruples are not caused by reason but by ill health, lack of sleep, excessive solitude, or melancholy. Such scruples do not oblige the conscience, because "an enquiry after determination, and searching into little corners, and measuring actions by atoms, and unnatural measures, and being over righteous is the way not to govern, but to disorder the conscience."[68] Thus, while men may not act against a doubting conscience, they may act against a scrupulous one, and most of Chapter VI consists of directions for overcoming scruples. Taylor suggests proceeding to action directly, relying upon a spiritual guide, praying and fasting, maintaining physical health, avoiding theological disputes and books of mystical theology, "which have in them the most high, the most troublesome, and the most mysterious nothings in the world, and little better than the effluxes of a religious madness."[69]

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[66] Romans xiv. 23; Taylor, IX, 221.

[67] Taylor, IX, 227.

In Book I of Ductor Dubitantium Taylor explains the general principles of the conscience, which is the formal cause of virtue or sin. In Books II and III he explains the material cause of good and evil, the laws of God and man. In Book II, entitled "Of Divine Laws and all Collateral Obligations," Taylor, following the Thomist theory of the law adopted by Hooker and Sanderson, presents the government of the world by divine reason as the basis of morality. The proper nature of man, as of all other created things, is described by the eternal law of God. Man is distinguished from the rest of nature by knowing this law through reason. This knowledge of divine eternal law is natural law. Although Taylor shares with Hooker and Sanderson the essentials of the Thomist idea of natural law as man's participation in the eternal law by virtue of his reason, he differs from Aquinas more than they do by stressing revelation rather than reason.[70] According to Taylor, "the law of nature is the universal law of the world, and the law of mankind, concerning common necessities, to which we are inclined by nature, invited by consent, prompted by reason, but is bound upon us only by the commands of God."[71] Natural law is "a transcript of the wisdom and will of God written in the tables of our minds" and is given to man "for the conservation of his nature and the promotion of his perfective end."[72] Natural law binds man to obedience, however, only through the express commandment of God. "God is the lawgiver, practical reason or conscience is the record; but revelation and expressed declaring of it was the first publication and emission of it, and till then it had not all the solemnities of law."[73] The basic tenet or "integral design" of the law of nature is "to do hurt to no man, and to do good to every man."[74] There is, however, no digest of the particular laws of nature except in "the express declared laws of God which concern morality, that is, all that are given to all mankind without relation to any one period." Taylor insists that the law of nature is neither *jus gentium* nor right reason, but "that which is contained in the law and the gospel."[75]

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[68] Taylor, IX, 262.

[69] Taylor, IX, 275.

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[70] McAdoo, pp. 37-38.

[71] Taylor, IX, 279.

[72] Taylor, IX, 295-296.

This opinion leads Taylor to devote the next chapter to "the law of nature, or of all mankind, as it is commanded, digested, and perfected by our supreme lawgiver, Jesus Christ." The Mosaic law, Taylor says, was temporary and binding only on the Jews and the coming of Christ gave to mankind a new law, which is the great rule of conscience.

> For one of the great benefits we receive by the coming of Christ is that we are now treated with by a covenant of faith, that is of grace and pardon, of repentance and sincere endeavours; the covenant of Moses being a prosecution of the covenant of works, can no longer oblige and therefore neither can the law.... [E]ver since He was made our Lord and our king He is our Law giver.[76]

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[73] Taylor, IX, 296.

[74] Taylor, IX, 300.

[75] Taylor, IX, 299.

[76] Taylor, IX, 350-355.

Both the judicial and the ceremonial laws of the Old Testament have been abrogated.[77] The moral law of Moses, or the decalogue, continues to oblige Christians because it is "an express of the tables of the law of nature." It is not, however, a perfect digest of the law of nature but was "like a paedagogue to bring us to Christ," who delivered a more perfect and more exacting law.[78] A Christian is bound by the decalogue only as it is interpreted by Christ and must not "reckon any system of natural law, but the books of the New testament." It is not enough for a Christian to "live according to nature"; he must "live according to grace, that is, the measures of reformed nature."[79]

Furthermore, everything in the decalogue is not part of the eternal natural law.[80] The second commandment obliges Christians only in the sense that they may not make images in order to worship them, and the Jewish Sabbath of the fourth commandment has been completely abrogated.[81] Man must, then, distinguish moral laws from other kinds of laws in the Old Testament.[82] He must also exercise care in his use of Biblical examples. The actions of good men are not always imitable. Examples are to be followed only when there is no rule, but in many cases examples may be helpful in the interpretation of rules.[83]

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[77] Taylor, IX, 355, 404.

[78] Taylor, IX, 405. Taylor explains that the New Testament does not contain completely new moral laws not contained in the Old Testament, but that "a commandment which was given of old was given again in a new manner, and to new purposes, and in more eminent degrees; and therefore is also called a new commandment."

[79] Taylor, IX, 408-409.

[80] Taylor, IX, 412.

[81] Taylor, IX, 420-468.

Book II of Ductor Dubitantium establishes the law of God as embodied in the New Testament as the great rule of conscience. In order, however, to instruct his conscience and guide his conduct by the law of God, man must interpret scripture and apply it to his own circumstances. The last chapter of this book is, therefore, a continuation of Taylor's instructions on how to interpret scripture. He explains in great detail twenty rules, such as "1. In negative precepts the affirmatives are commanded, and in the affirmative commandments the negatives are included"; "7. When any thing is forbidden by the laws of Christ, all those things also by which we come to that sin are understood to be by the same law forbidden"; "19. Custom is no sufficient interpreter of the laws of Jesus Christ."

The third book of Ductor Dubitantium deals with human law. The "greatest case of conscience in this whole matter," Taylor declares, is "whether it be a matter of conscience as well as prudence and security to obey the laws of man."[84] It has been argued that the conscience is not bound because it is seated in the understanding, which cannot be compelled by force; because Christian liberty frees man from the laws of men as well as the laws of Moses, and we are commanded, "'Ye are bought with a price, be ye not servants of men'"; and because to admit that human laws may bind men's consciences is to impute to man the power to save or damn and to dispose of grace by turning actions into sins. Taylor disposes of these arguments much as Sanderson did. Human laws bind the conscience not directly by virtue of their intrinsic merit or authority, but indirectly by virtue of the power derived from God. "'By Me Kings reign, and the lawgivers decree justice,' says the Wisdom of God; that is, the Son of God."[85] And in Romans xii St. Paul commands us to submit to temporal rulers "not only for wrath, but also for conscience sake."[86]

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[82] Taylor, IX, 468-474.

[83] Taylor, IX, 485-495.

Human law, according to Taylor, functions in two ways. First, it applies the universal laws of God to particular actions. For instance, divine law forbids murder, and human law determines what constitutes murder. Second, it makes laws about indifferent things. If man could command nothing but applications of eternal natural law, then kings could really command nothing that was not already commanded, the laws of Persia and Greece and of the fifth century and the fifteenth would have to be identical, and governments could not improve with experience. "All which are such foolish consequences, that it must be granted, that whatever human power can justly ordain, or prudently or necessarily, or probably, all that is bound upon the conscience of the subject certainly and to all events as the law of God himself."[87] Since human rulers derive their power from God, "the legislative or supreme power is not the servant of the people, but the minister, the trustee and representative of God."[88] The obligatory force of their laws does not depend on their intentions but on the command of God. God, however, binds the law on the conscience according to the intention of the lawmaker.[89]

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[84] Taylor, X, 4.

[85] Taylor, X, 6. Taylor's attempt to attribute this passage from the Old Testament (Prov. viii. 15) to Christ is interesting in view of his argument in Book II that the new law supersedes the old.

[86] Taylor, X, 8.

Both the laws of God and of men bind the conscience, then, but there are differences between them. Man must submit his will and his understanding to God. He is bound to submit only his will in external obedience to the laws of man. His understanding is "a prince, and can be governed as he can be persuaded, subject to the empire of none but God."[90] Divine laws are universal and eternal and are always obligatory. Human laws may cease to bind the conscience for various reasons. Casuists, as a result, are most needed in matters relating to human laws:

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[87] Taylor, X, 9.

[88] Taylor, X, 7.

[89] Taylor, X, 11.

> For the laws of God are wiser and plainer, few and lasting, general and natural, perceived by necessity, and understood by the easiest notices of things; and therefore men have more need to be called upon to obey, than taught how; and therefore here the preacher's office is most necessary and most required. But human laws are sometime intricate by weakness, sometimes by design, sometimes by an unavoidable necessity; they are contingent, and removed far from the experiences of most men; they are many and particular, difficult and transient, various in their provisions, and alterable by many parts and many ways: and yet because the conscience is all the way obliged, she hath greater need of being conducted than in the other, where every wise man can better be a guide in the little intrigues, and every child can walk in the plain way.[91]

Taylor clearly attributes a great deal of power to earthly rulers. Man must, he says, in conscience obey human laws whether or not they seem to be wise and necessary, in private as well as in public.[92] Human laws are not obligatory, however, when they command anything which is not good according to the laws of God, when they are founded on a false presumption, when they would result in "intolerable or very grievous evil" and suffering, and when they have not been sufficiently promulgated. Laws concerning indifferent things do not bind the conscience when one is outside of the law's jurisdiction.

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[90] Taylor, X, 27.

[91] Taylor, X, 3.

In the next four chapters Taylor considers more specific problems of the moral implications of human laws. Chapter II treats penal laws. Taylor rules that the civil magistrate may impose punishments for crime, including the death penalty. Here Taylor also considers a frequent casuistical crux, the lawful lie, which includes such devices as equivocation and mental reservation. A man may not lie to save himself from punishment, but there are extraordinary circumstances when "pious cozenage" is lawful. For example, one may lie to children and madmen for their own good or lie to save a man's life.[93]

Chapter III treats the power of the civil magistrate, to whom Taylor grants very great power indeed. "The supreme power in every republic is universal, absolute, and unlimited."[94] Subjects may not rebel against their king for any cause whatsoever. They may disobey, when, for example, they cannot obey both the king and God, but "though in some cases it is lawful not to obey, yet in all cases it is necessary not to resist."[95] Kings have, Taylor maintains, ultimate power in ecclesiastical and religious as well as civil questions. Although the power of kings over religion has been opposed by both the papists and the Presbyterians, it is clearly necessary "or else, they are but half kings at best, for the affairs of religion are one half of the interest of mankind."[96] God has made kings responsible for the protection of the church and the preservation of their subjects in "godliness and honesty, in peace and tranquillity: and how this can be done without the supreme care and government of religion is not easy to be understood."[97]

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[92] Taylor, X, 9-10; 48-53.

[93] Taylor, X, 100-132

The only limitation to the power of kings which Taylor admits is that, for all their temporal and ecclesiastical power, even kings have consciences which are bound by divine law. Their power "is a power of doing right, but not of doing wrong."[98] The end of their government should always be "that the public should by all means be preserved."[99] Only God, however, has the power to enforce the laws which bind the conscience of a king.

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[94] Taylor, X, 161.

[95] Taylor, X, 185.

[96] Taylor, X, 203.

[97] Taylor, X, 213.

Having applied the general principles concerning human laws to the power of the supreme temporal ruler in Chapter III, in Chapter IV Taylor turns to the power of the church. The church may make laws in everything pertaining to its responsibility; that is, "the conduct of souls, the duties of religion, the commandments of God, the sacraments of the religion, the orders of the divine institution, the interior actions of grace, and the external, which are of necessary ministry and relation to them."[100] Not only do the laws of particular Christian churches bind the consciences of their subjects, according to Taylor, but so do the customs of Christendom.[101] Ecclesiastical laws, like civil laws, bind men's consciences under penalty of sin, because God has granted the power to govern His church to

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[98] Taylor, X, 164.

[99] Taylor, X, 162.

[100] Taylor, X, 280.

[101] Taylor, X, 358-372.

His bishops and to disobey them is to disobey Him.[102] The power of the church, however, is purely spiritual.[103] She fulfills her legislative function by "preaching and publishing, by exhortation and command," and she performs her judicial function "by threatenings and denunciations, by comforts and absolutions.[104] Her power is the power of the keys, not the power of the sword. The church may excommunicate, but this action affects only those who recognize its authority.

The coercive power which maintains the external strength of the church is exercised by the civil power in her behalf. Secular princes confirm the commands of bishops and make them into laws. Before kings became Christians the commands of the church could control only those who were willing to accept her authority, and "therefore none but the men of good will, the pious and the religious children of the church did obey: but now that princes have set the cross upon their imperial globes and sceptres, even the wicked must obey; all are tied by all manner of ties, and all can be compelled that need it."[105]

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[102] Taylor, X, 275-279.

[103] Taylor, X, 264-275.

[104] Taylor, X, 271.

[105] Taylor, X, 293.

Secular rulers are bound by religion to obey the laws of the church, but the church has no power to force them to do so. In fact, the church may not excommunicate the ruler, and ecclessiastical excommunication ought to be endorsed by the prince.[106]

Ecclesiastical laws may be based directly on the commandments of God, and then they oblige the conscience universally. They may also concern indifferent things, and then they oblige the conscience only in a certain time and place. For example, all churches must follow the rituals taught by the apostles which were of divine institution,, such as the essentials of the celebration of the holy sacrament, but they are free to make their own laws concerning matters about which the apostles "did not speak or which they ordered by their own wisdom."[107] They should, however, tamper with the apostles' suggestions for order and decency in the church only with great caution.

The laws of particular churches which do not involve a divine commandment "are relative to time and place, to persons and occasions, subject to all changes, fitted for use and the advantage of churches, ministering to edification, and complying with charity."[108] Such purely ecclesiastical laws should not be imposed as necessary matters of doctrine, and those who break them should not be punished as severely as those who break divine commandments.[109] Ceremonial laws bind in public as manifestations of obedience, but they do not bind in private where there is no danger of scandal or contempt of lawful authority.[110] Taylor insists that ecclesiastical laws bind men to obedience only when they are conducive to the service of God, to charity, and the good of men's souls, not when they are unreasonably difficult or stumbling-blocks to men's consciences, and he illustrates these principles by discussing such cases as the observance of fasts, the use of music in the church, and the marriage of priests.[111]

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[106] Taylor, X, 299-318.

[107] Taylor, X, 238.

[108] Taylor, X, 379.

The last section of Taylor's explication of the power of the church deals with laws of faith. The catholic church, Taylor says, is "a witness beyond exception" to the truths of faith recorded in scripture.[112] The whole catholic church, however, has not met in a body and has not been without error since the days of the apostles "so that the authority of the catholic church is resolved in catholic tradition."[113] The church, therefore, even in general councils has no power to make laws of faith or to determine questions of faith except by appeal to scripture. Particular churches may, through the supreme civil authority, demand subscription to articles of faith in order to strengthen "the unity and peace of that christian community."[114] Such a practice is purely political, however, and must be administered carefully, for man cannot lawfully command us to profess any doctrines which God has not commanded us to believe.[115]

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[109] Taylor, X, 379-391.

[110] Taylor, X, 391-394.

[111] Taylor, X, 394-440.

[112] Taylor, X, 440.

In the next chapter Taylor considers domestic laws, or the powers of fathers over the consciences of their children. Children must obey their parents, because parents are in the place of God to their children, because children must feel gratitude toward their parents, and because God has given parents the power of blessing and cursing.[116] Both civil and natural law confirm the father's power over his children in all matters relating to the family. Children must treat their parents with reverence and should support them if they need it.[117] A child must not marry or take up any lasting course of life without the approval of his father, and fathers may punish their children, though not with death.[118] A father's power, however, does not extend to religion after his children have reached the age of reason, and his authority cannot oblige his son to disobey a law of God or a higher human authority.[119]

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[113] Taylor, X , 440.

[114] Taylor, X, 447.

[115] Taylor, X, 448.

[116] Taylor, X, 451-454.

[117] Taylor, X, 455-457; 460-463.

The last chapter of the book on human law is Taylor's exposition of the interpretation of human law. The obligation of the conscience to human laws may be changed in several ways: equity, judicial interpretation, a contrary reason, dispensation, commutation, contrary custom, or abrogation. First, the rule of equity may relieve the obligation of the conscience to the letter of the law when it is unduly severe. The mind and intention rather than the words of the lawgiver are to be followed.[120] The manner of obligation to a law may also be qualified by the lawmaker's interpretation of it, for

> the law is nothing but the solemn and declared will of the lawgiver; and he that speaks best knows his own mind; and he that can take away the law can alter it; and he that can cut off the hands may certainly pare the nails.[121]

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[118] Taylor, X, 474-500; 457-460.

[119] Taylor, X, 464-466; 469-474.

[120] Taylor, X, 501-512.

[121] Taylor, X, 513.

Taylor stipulates that this power must be exercised "with nobleness and ingenuity; not fraudulently, or to oppress any one [and only] upon grave and just causes: for to be easy and forward in the laws by unnnecessary interpretations is but a diminution of justice and a looseness in government."[122] For the same reason and with the same caution, the legislator may dispense with law in any particular case so long as he does not infringe upon the rights of another, and he may commute the obligation of the law into another form or annul it completely when it is no longer necessary.[123]

A change in the reasons for a law may also influence its obligatory power. When a law is made for a particular reason and that reason is replaced by a contrary one which creates a situation in which the law could not have been justly imposed, then the law is void and does not oblige the conscience. A law remains in force, however, if the reason for it disappears without being replaced by one which makes the law unjust. A law continues to bind the conscience even when the particular reason for it is gone, when the lawmaker intends that it remain as an instance of his authority, when the action commanded has become a custom, or when the law commands an action intrinsically honest and virtuous regardless of the particular reason for its origin.

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[122] Taylor, X, 514-515.

[123] Taylor, X, 535-537; 542-544.

The other phenomenon which affects the obligations of human law is custom. Taylor in this section repeats his opinion that custom imposes an obligation on the conscience just as a law does. In addition, custom may interpret a law so that as a result in both canon and civil law doubtful questions can be solved by reference to precedent. On the other hand, Taylor insists that a contrary custom can never abrogate a just law, and he concludes Book III of _Ductor Dubitantium_ "with the apologie taken out of Nicolaus Damescenus his politics.... Laws are like the girdles of the Iberian women: 'if any man's belly or his heart is too big for those circles, he is a dissolute and a dishonoured person.'"[124]

In the first book of _Ductor Dubitantium_ Taylor discusses the formal cause of virtue and sin, the approval or disapproval of the conscience. In the second and third books, he discusses the material cause, the laws of God and man. In the fourth and shortest book of his _magnum opus_, Taylor analyzes the efficient and final causes of the morality of human action. The efficient cause of all moral action, according to Taylor, is the will; no human action can be either good or evil unless it is voluntary.[125] This liberty of choice, Taylor insists, is essential to the very nature of man, halfway between angel and beast. For since man lives in a world in which "there is good and evil in confusion of imperfect mixture, if our faculties tending to these objects were natural, and not deliberative and elective, they must take all in, or thrust all out, and either they must receive no good or admit every evil."[126] If virtue did not depend on freely choosing the good, then a lazy, bad man would be no more culpable than a diligent, wise man, and it would be "to no purpose to write cases of conscience."[127] But, since our wills are free, "[d]ifficulty makes virtue...and liberty is the hand and fingers of the soul by which she picks and chooses, and if she gathers flowers she makes herself a garland of immortality."[128]

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[124] Taylor, X, 544.

The most important implication of this central tenet is that everything that a man deliberately does contributes to his moral nature. Taylor acknowledges that some actions, such as coughing and sneezing, are purely natural and amoral, and that the omissions of some actions are morally indifferent because the will played no part in them.[129] The poor shepherd who thinks only of his stomach and his sheep does not display a virtuous renunciation of ambition because he does not strive for high ecclesiastical honors. "For he that was never tempted may be innocent, but he is not virtuous and shall have no reward."[130] But all other actions, although natural in themselves, become either good or evil by the consent of the will. Even actions which are indifferent in kind, neither commanded nor prohibited by law, are not morally indifferent when chosen by the will. Eating and sleeping and telling stories, actions which produce natural of social good, are also morally good. Conversely, frivolous chatter is morally evil: "Of every idle word that a man shall speak he shall give account in that day."[131] Since every willful action contributes at least indirectly to "eternal blessing or infelicity," Taylor argues, man must keep "a strict watchfulness over all [his] words and actions."[132]

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[125] Taylor, X, 548-555. Taylor, like Sanderson, names St. Augustine as the source of his discussion of the role of the will.

[126] Taylor, X, 551.

[127] Taylor, X, 550.

[128] Taylor, X, 552.

The next rule which Taylor draws from his understanding of the efficient cause of moral action is designed to explain the nature of social crimes in which "a man's will is deeper than his hand."[133] Man is, Taylor contends, morally responsible for those crimes which others commit in his name with his approval. In this connection Taylor considers (in tedious detail) the lawfulness of playing cards, but he also discusses ethical questions which World War II has made particularly relevant for the twentieth century. He analyzes the relative degree of guilt of a man who commands a sin, a man who sins by obeying and a man who silently permits other men to sin.[134]

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[129] Taylor, X, 556-558.

[130] Taylor, X, 557.

[131] Matt. xii. 36; Taylor, X, 561.

[132] Taylor, X, 563.

Some of Taylor's discussions in this section are extremely intricate and apparently remote from ordinary experience, but they all stem from his emphasis on the will. He maintains that God will hold man morally responsible for actions of the will even when they have no external consequences, although the laws of man may judge only the external deed.[135] Taylor distinguishes six degrees of the process of willing a sin, but his important point is that "the internal act of the will and the external act of the man are but one act...and whatsoever is done without is first consented to within, and is but the ministry and execution of the sin within. For the act of choosing is the foundation of all morality."[136] Thus, if by some accident "Mævius lay with his wife Petronilla, supposing she had been Nicastrata, he was an adulterer before God."[137] Furthermore, man is morally responsible for sins which he foresees and causes but commits involuntarily.[138] A man who drinks so that he can fornicate without fear is guilty of fornication as well as drunkenness even if he loses his reason and is unable to deliberate and thus unable to choose when the sin is actually committed.

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[133] Taylor, X, 570.

[134] Taylor, X, 573-587.

[135] Taylor, X, 602-611.

The last point which is relevant to the efficient cause of moral action is that choice is based on knowledge and the use of reason. Ignorance, therefore, may limit moral responsibility, although Taylor is careful to insist that in most cases ignorance is an additional sin rather than an extenuation of it. The law of God is sufficiently revealed so that man cannot plead ignorance of his essential duty.[139] In particular cases, man may not know enough, but he is required to use "moral diligence" in trying to discover his duty. If he does not, his ignorance is voluntary and vincible and may alleviate but does not remove his sin. If, after inquiry proportionate to the seriousness of the subject, man still misses complete truth, his ignorance is probable and excuses his sin.[140] Ignorance which is completely involuntary, such as that of infants and the insane, is invincible and innocent. So too is concomitant ignorance, as when a man shoots an arrow at a deer and involuntarily kills a man.[141]

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[136] Taylor, X, 605.

[137] Taylor, X, 606.

[138] Taylor, X, 611-616.

[139] Taylor, X, 616-618.

Extreme fear which renders the reason useless may also make moral choice impossible, according to Taylor. A man who is so frightened by a pursuing lion that he runs into a river and drowns is not guilty of suicide.[142] Taylor cautions, however, that just as ignorance is often a sin and not a remover of guilt, so fear betrays men more often than it excuses them. He illustrates this with the case of Roberto Manzone, who was seized by bandits who threatened him with death if he would not guide them to the house of his landlord whom they intended to rob and murder. Roberto was partially guilty of the murder, Taylor concludes, because he preferred to save his own life rather than another's.[143]

The last chapter of Ductor Dubitantium concerns the final cause of human actions, or the question of motive. Taylor's basic point here is that in moral actions the end and the means must be consistent with the innocence of the action itself. His first rule is "in every good action the means and the end must be symbolical: so that, 1) a good action done for an evil end, and 2) an evil action done for a good end, are alike criminal."[144] Although it is lawful to perform innocent actions for temporal ends, the proper end of all human action is the glory of God. If man intends to glorify God with his life and measures his particular intentions against that standard, he will do well, "for in the service of God a golden head shall never have feet of clay."[145]

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[140] Taylor, X, 621-624.

[141] Taylor, X, 625-638.

[142] Taylor, X, 641.

[143] Taylor, X, 639.

III

Unity and Uniformity in Ductor Dubitantium

This long but inevitably superficial summary of Ductor Dubitantium shows that not only is Taylor's justly celebrated prose style richer and more fanciful than Sanderson's and

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[144] Taylor, X, 646.

[145] Taylor, X, 659.

Barlow's, but that his conception of his work as a whole necessitated his treating particular moral problems differently than they did. He agreed with the basic principles of moral action which Sanderson outlined in his lectures on the conscience and which Barlow endorsed, and he accepted Sanderson's account of the casuistical process which Barlow reported with approval. But he decided that simply setting down clearly the basic rules of conduct could never effectively serve as a guide to moral action. Since sound theological principles were continually being used to justify actions which Taylor deplored, these principles themselves needed to be examined and clarified. Taylor also knew that merely elaborating the rules would never serve his purpose, for human experience is so diverse that there will always be situations which no rule specifically provides for. Nor could a few model cases of conscience effectively deal with the complexity of human experience, because the variety of individual circumstances and problems is infinite. To increase the problem, England, as Taylor saw it, badly needed moral guidance which her church was not providing. He had seen Englishmen kill their anointed king, outlaw their Prayer Book, and eject the faithful ministers of their church. He had watched the bishops of the church shirk their responsibilities and the King himself vacillate and even capitulate to the enemy by signing the hated Solemn League and Covenant.

Taylor himself was imprisoned at three different times by ecclesiastical and political enemies and was also censured bitterly by his friends for theological unorthodoxies. He must sometimes have felt that "the best lack all convictions, while the worst/ Are full of passionate intensity."

Ductor Dubitantium is an attempt by Taylor to fulfill his responsibility as a clergyman and a Christian by showing men in a time of moral chaos the way to the peace and felicity of a sure conscience and an upright life. His purpose is not to move the emotions, but to teach. He attempts to explain as precisely as possible what men's moral duties are and to correct those misapprehensions which have grown out of human perversity and intellectual failures. He also explains how these moral duties can be discovered in the laws which govern human conduct and how they may be qualified by particular situations. In addition, he describes the relationship between these external standards of good and evil and the individual human being as a free moral agent who is defined by his thoughts as well as his actions and his intentions as well as the consequences of his external deeds. Finally, Taylor tries to demonstrate all of this vividly and persuasively in concrete examples.

Probably no one would argue that Ductor Dubitantium is a perfectly realized organic whole, each part of which is absolutely essential. Taylor's strength lies in his richness, not in the clearness and simplicity of his design. Even when he is censuring casuists who show off by discussing complicated cases which are remote from the actual problems men ordinarily have to face, he cannot resist spending a page on an example of just such a "curious and unprofitable" story.[146] This story from the Phaedrus is, in fact, quite interesting, although it is, as Taylor says, more of a riddle than a case of conscience. Some of the stories Taylor presents without apology, however, seem hardly more relevant to the actual struggle of difficult moral decisions, and are certainly less entertaining. For example:

> Titius intends to give Codrus a new gown at the next Calends, but forgets his intention; but yet at the calends does upon a new intention give him a gown. This act is but one, but hath no morality from the first intention, but from the second, though there were two internal acts of volition to the same external; because the first did cease to be, and therefore could have no influence into the effect.[147]

This statistical approach to piety is unattractive and uncharacteristic of Taylor's approach to moral problems, and I cannot think that Ductor Dubitantium would have suffered from the omission of this particular passage. Still, it is a mistake to regard this kind of illustration as a result of Taylor's delight in ostentatious exercises of wit or of his uncontrollable verbosity. Taylor uses the story of Titius and the gift along with several others to explain the variety of relationships possible between internal and external actions. His general rule, as explained before, is that internal and external acts are identical. Nevertheless, this one-to-one relationship can be complicated by accidental interruptions. Taylor explains the possible discrepancies between the act of volition and the manifestation of choice in external action not because he advises counting up credits for good deeds, but because it is important to realize that repeated acts of the will may incur greater sin. For example, a man who resolves to kill his enemy and lies in wait for him on two succeeding days and finally kills him on the third day sins trebly because each day he repeated or renewed his decision to murder. This perception of the danger to moral character of repeated malicious acts of the will is basic to Taylor's thought and is related to his insistence that vicious habits are not, as they are often considered, extenuations of the guilt of an evil action, but often intensifications of it.[148] A man's moral character is created by the decisions he has made and cannot be assessed by simply weighing his "bad" actions against his "good" actions.

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[146] Taylor, IX, xviii-xix.

[147] Taylor, IX, 607.

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[148] Taylor's fullest discussion of the dangers of habitual sin is in Unum Necessarium where he presents repentance not as a single action of contrition, but as the process of regenerative human experience which leads to redemption through holy living.

Neither the theoretical discussions nor the sample cases could well have been omitted from Ductor Dubitantium because in Taylor's view a holy life in a world which is a confusing mixture of good and evil can only result from the discovery of viable moral norms by the complicated ratiocinative process of the enlightened reason and can exist only in the realization of these values in actual experience. Ductor Dubitantium is not a compendium of cases of conscience on the Roman Catholic model or an exposition of moral absolutes, but, as Taylor explains in his preface, a rewriting of cases of conscience upon sound principles.

It seems inevitable that Taylor's great "instrument of moral theology" written during a period of ecclesiastical upheaval should concern itself with the practical moral problems which relate to the idea of Christian unity. Taylor's letters to John Evelyn during the 1650's, as a matter of fact, refer most frequently to these two subjects, his "cases of conscience" and the persecution of the church.[149] And, as my summary indicates, the problem of unity and uniformity appears in Ductor Dubitantium in many forms. Cataloguing every instance which bears on this problem would be tedious, but considering Taylor's treatment of some of the most important issues should throw some light on the casuistical treatment of this problem and on Taylor's casuistical method.

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[149] Stranks, pp. 164-165.

The basic idea of the church in Ductor derives from the Tudor idea of a unified national church. "The church," Taylor writes, "is not a distinct state and order of men, but the commonwealth turned christian, that is, better instructed, more holy, greater lovers of God, and taught in the knowledge of our Lord Jesus."[150] As I pointed out earlier, Taylor grants considerable power over religion to the Christian prince. He was, moreover, a protegé of Laud and attached a great deal of importance to the episcopal government of the church. In fact, Episcopacy Asserted, his first published work, was a defense of episcopacy against Puritan attacks in which he adopted the extreme High Church position of basing the justification for episcopacy on dominical appointment rather than the more moderate theory of apostolic appointment.[151] While he advocated a unified national church governed by a uniform ecclesiastical structure and protected by temporal authority, he also insisted upon the sovereignty of the individual conscience, the relative unimportance of ceremonial laws in indifferent things, and the supreme importance of merciful and charitable administration of the laws regulating religion. Whether his focus is finally on the obligation of the laws or on the rights and liberties of the individual will appear most clearly in his treatment of particular problems.

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[150] Taylor, X, 253.

[151] Canon Stranks points out that this work won for Taylor the praise of Laud and the favor of the court. Stranks, pp. 60-61.

The practical moral problems related to unity and uniformity which Sanderson and Barlow attempted to resolve were roughly of two sorts. Sanderson's cases deal essentially with problems of ecclesiastical unity and uniformity from the point of view of a clergyman subjected to a hostile, usurping government, while Barlow's cases of conscience on toleration treat the problem of the responsibility of the Christian state in preserving unity of faith through ecclesiastical uniformity. Although Taylor does not discuss in detail sample cases of any of the problems treated by his colleagues, he indicates in Ductor Dubitantium his approach to both kinds of questions.

For example, the Engagement controversy which Sanderson dealt with in a case of conscience was basically a question of the proper relationship to the usurping government, and how one answered it depended on his conception of the church. All of the Anglicans who discussed the problem concurred in repudiating parliament's right to the power they were exercising and in strongly preferring a civil government culminating in a hereditary monarch and a church governed by bishops; we can make clear distinctions, however, among their responses to the actual situation. The "Engagers" argued that the collapse of the power of the King and of the bishops was the judgment of providence on them. The laws of a civil government which obtained its power illegally are just as binding as those of any other civil authority. The Engagement oath was required by those with plenary possession, and obedience was not simply lawful but imperative. To men like Sheldon, the church of England, as governed by its bishops, was the only manifestation in England of the true church, and the individual Christian's moral responsibility was to guard jealously the purity and prerogatives of the church under persecution, even at the cost of severe suffering. Sanderson, on the other hand, while he does not question the King's right or the Anglican claim to apostolic succession, concludes that a Christian may in good conscience swear loyalty to a commonwealth without king and bishops. He maintains, in other words, that while a conscientious man may not acknowledge the usurper's right to power, he may live and worship peacefully within the state and the church he establishes. The church is still a Christian church, even without bishops, and England is still England, even without her King, and loyal Anglicans can operate from within the new establishment as long as they do not repudiate their original allegiaces.

It is fruitless to speculate on how Taylor would have resolved a case of conscience about the Engagement controversy. He did not subscribe to the oath, but we have no way of knowing whether he would have advised others to suffer ejection rather than do so. Ductor Dubitantium theoretically provides sound principles for deciding such cases, however, so that it should be possible to discover a resolution of the case on the basis of them. The construction of an actual case of conscience on Taylor's principles is beyond the scope of this study, but, using the other treatments of the Engagement controversy as guides, we can speculate as to how such a task might be accomplished.

First, Taylor offers no support for the justification of the legality of parliamentary power by right of conquest set forth by Ascham and Rous. He, like Sanderson, endorses the royalist arguments of non-resistance even to a wicked prince and nowhere presents the collapse of the monarchy as evidence of divine providence transferring lawful authority to the new regime. His discussions of obedience to secular authority all assume a lawful authority. There would be no question, then, of the signing of the Engagement oath being a necessary act of obedience to lawful authority. Refusal to sign the oath would thus be the safest action. But Taylor is not a tutiorist who maintains that men must suffer extreme hardship rather than risk the slightest possibility of sinning. Taylor is a probabiliorist and would presumably believe that if the innocence of subscribing is more probable than its sinfulness, then a man may lawfully subscribe.

The problem, then, would become that of weighing the evidence concerning the lawfulness of the particular oath in question. Since Taylor's personal friends and professional allegiances were mainly with the High Church party, it is possible that he personally responded to this controversy as Sheldon and Hammond did. The question, nevertheless, is not what he actually thought about the particular issue, but what guidance his casuistry offered for problems of this sort. And Ductor Dubitantium provides considerable support for Sanderson's resolution of the case. Although he is more rigid than many of his colleagues on the question of episcopacy, Taylor's conception of the church in Ductor, as it was in The Liberty of Prophesying, is quite broad. The true church is not confined to the Laudian church of England or any other particular national church or sect. The fundamentals of saving truth are sufficiently revealed to all Christians: "there is to every man revealed so much truth as is sufficient to his salvation."[152] Any man who does not know that there is a good, just, and true God who is to be worshipped and "that we must do no more wrong than we are willing to receive or suffer" is guilty of voluntary ignorance. All Christians must know "that which the catholic church teaches to be necessary to salvation." But a man may be innocently ignorant of those things which various churches dispute," for there is supposed difficulty, and obscurity, and every degree of these is the greatest indication that there is not of them any absolute necessity."[153]

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[152] Taylor, X, 616.

Taylor does not consider a case very similar to the case of conscience on the Engagement, but he indicates his latitudinarian idea of the church by remarks on the question of mixed communion. While he would not himself receive communion from a Presbyterian who had not been properly ordained by a bishop or from a Huguenot who held episcopacy to be unlawful, he would not refuse to give communion in a form different from that of the Church of England when attending church in a country with different customs.[154]

> I will not come to their communions; but if they would use good forms of liturgy, and preach well, I would not refuse to communicate in such assemblies: unless...I be accidentally hindered by some other duty drawing me off a while.[155]

This attitude toward non-episcopal churches does not reflect deeply felt sympathy and respect for other men's points of view, but neither would it seem to require a man to sacrifice his means of supporting his family in order to preserve the purity of one particular interpretation of the true church and in order to present a united front against the opposition. Taylor continues, indeed, to warn against refusals to communicate with other churches.

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[153] Taylor, X, 618.

[154] Taylor, X, 60, 310.

[155] Taylor, X, 310.

> [I]t is commonly the daughter of spiritual pride, an accounting of ourselves more holy than our brethren, whom by such means we oftentimes provoke to jealousies and indignation; and so sometimes altars are erected against altars.... Upon this account christendom hath bled for many ages. The division of the east from the western churches, and in the west the division of Rome from divers churches, the protestant and reformed came in at this door; while one church either pretends the singularity of truth, or the eminency of authority over other churches....[156]

Besides warning against a narrow conception of the church, Taylor also outlines principles for dealing with oaths. Since oaths call God in as witness, they are serious actions and require moral diligence.

> No man must swear a thing is so, and yet at last say, I did bona fide suppose it so: but I examined it, I searched as well as I could, I entered into all the corners of it, I had great reasons to believe, I had fair assurances it was so, and I every day am assured of many things of which I had less testimony.[157]

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[156] Taylor, X, 310.

[157] Taylor, X, 622.

A man needs this kind of probability to swear in a doubtful case. Oaths are not, according to Taylor, spiritually productive confessions of faith; they are political means of strengthening the solidarity of the state which should be carefully designed to avoid troubling men's consciences. Men may lawfully swear to articles of faith which they believe to be true, but, Taylor cautiously adds, they should be wary of swearing to believe the same thing always, "for that is either a profession of infallibility in the authority or in the article, or else a direct shutting our heart against all further clarity and manifestations of the truths of God."[158] The question of whether a man can lawfully subscribe to something he does not believe, "giving his hand to the public peace, and keeping his conscience for God," is easily resolved. Pretending to approve something we do not believe is unlawful hypocrisy. Equivocation and mental reservations offer no way out, for "if the intention of the superior be to require our assent to be testified by subscription, he that subscribes does profess his assent, and whatever he thinks himself, it is the intention of the imposer that qualifies subscription."[159]

As well as holding that the intention of the imposer determines the obligatory power of an oath, Taylor repeatedly insists that articles of belief should be imposed only when necessary to maintain the peace, because experience has taught that the dissension in the world is so great that there will always be good men who dissent and will either be persecuted or tempted to hypocrisy. His only solution to this problem, which is less rigorous than Sanderson's but along the same lines, is as follows:

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[158] Taylor, X, 447.

[159] Taylor, X, 450.

> [L]et the articles be made with as great latitude of sense as they can; and so that subscriptions be made to the form of words, let the subscribers understand them in what sense they please which the truth of God will suffer, and the words can be capable of.

He is not, however, completely happy with this solution, which, he says, is a final resort, but not a very good one:

> it hath in it something of craft, but very little of ingenuity; and if it can serve the ends of peace, or of external charity, or of a fantastic concord, yet it cannot serve the ends of truth and holiness, and christian simplicity.[160]

We have more direct biographical evidence of Taylor's reaction to the second of Sanderson's cases of conscience concerning the moral responsibility of an Anglican clergyman under the Puritan government, the Prayer Book controversy. Taylor was certainly no advocate of extemporaneous forms of worship. In 1646 he published *A Discourse of Prayer Extempore* criticizing the Directory and defending the Prayer Book. He expanded and reissued this work in 1649 as *An Apology for Authorized and Set Forms of Liturgy*. But he, like Sanderson, felt the need for adjusting to the changed circumstances of persecution. As I noted in Chapter III, he was instrumental in the attempt in 1653 to get the bishops to dispense officially with the Prayer Book for a time.[161] In 1658 he published his *Collection of Offices* as an alternative to the proscribed Prayer Book. He says that the sources for his revision were "the scriptures and the ancient liturgies of several churches, especially the Greek."[162] He restricted himself to the words and order of the Prayer Book less rigorously than Sanderson's description in his procedure would suggest that he did, but Taylor very carefully insists that his liturgy is temporary and should not be used against the wishes of ecclesiastical authority.

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[160] Taylor, X, 450.

> The offices themselves...I submit to the judgment of my afflicted mother the Church of England, and particularly to the censures of my spiritual superiors: and I desire that these prayers may no

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[161] See my p. 115.

[162] *A Collection of Offices, or Forms of Prayer in cases ordinary and extraordinary*.... Anon. (London, 1658) in *Works*, VIII.

> longer be used in any public place, than my lords the bishops...shall perceive them useful to the present or future necessities...of the church.[163]

Taylor does not specifically discuss a case of conscience similar to that raised by the Prayer Book controversy in Ductor, but he again provides a theoretical framework for a resolution of the problem on grounds similar to Sanderson's case. Taylor gives no justification for direct disobedience to ecclesiastical authority in matters of ritual. The power of the church to make laws resides entirely in her bishops.[164] By quoting St. Clement, Tertullian, St. Jerome, and St. Cyprian, Taylor warns that men who disobey their bishops and divide the unity of the church are guilty of moral sin.

> In the judgment of God he shall suffer the torments of an eternal fire who shall neglect the decrees of the church.... For it is necessary that you do nothing without the bishop: for he that is disobedient to bishops will be altogether without God, impious, and a despiser of Christ, and a disparager of His ordinance.[165]

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[164] Taylor, X, 276.

[165] Taylor, X, 278-279. Taylor's editor provides the following note: "Epist. Clem. i. in fine. [inter concill. Harduin., tom. i. col. 49 E.] Epist. [interpret.] ad Trellian. [82. p. 60]."

The church has the power to order Christian worship to the ends of decency and comeliness. Men err greatly who believe that Christian liberty frees them to follow their own whims in indifferent things.

> It is a strange folly that men will not think they have possession of christian liberty, unless they break all laws and all customs, as if men could not prove things to be indifferent and not obligatory unless they certainly omit them. Christian liberty consists in the head, not in the hand; and when we know we are free from the bondage, we may yet do the work; and when our gracious Lord hath knocked our fetters off, we may yet think it too fit to do what His stewards command us in order to His services.[166]

The sin of disobedience is aggravated by the sin of scandal. For example:

> To kneel or to stand at the holy communion hath been severally used in divers churches ancient and modern; but when a law is made that we shall kneel, and if I do not kneel, he that observes will think I do no reverence to Christ's body and blood, and by my example will learn to despise it, the conscience is burdened with the sin of irreverence something, but very greatly with the sin of scandal.[167]

By supporting the power of the bishops to make laws establishing the liturgy of the church and by maintaining that a man who disobeys the laws of his church is guilty of schism and scandal as well as disobedience, even if he is following his own conscience, Taylor grants the major promises of the High Church party. A good part of Ductor Dubitantium, however, is devoted to explaining how laws apply in particular cases. As I tried to demonstrate in Chapter III, an unbending defender of the Prayer Book such as Herbert Thorndike bases his opinion on the immutability of the law. The casuists Sanderson and Taylor consistently maintain that the obligation of the law alters in particular cases, as circumstances change. In Book IV, Chapter VI, of Ductor Dubitantium, Taylor explains carefully that human laws bind according to the intention of the lawgiver. When circumstances change so that a law which was intended for the public good becomes instead an oppressive burden, the obligation to the law ceases.[168] In addition, Taylor proposes two rules by which to examine the conditions under which laws are obligatory in cases of conscience concerning indifferent things. Rule 19 reads as follows: "Ecclesiastical laws must be charitable and easy; and when they are not, they oblige not."[169] The ecclesiastical laws of the primitive church, Taylor observes, were always charitable and gentle, and, when ecclesiastical laws are enforced by the temporal power, they should be no less so. The power of the church is persuasive, not coercive; "therefore matters of intolerable burden are not the matter of ecclesiastical laws, because they certainly are against the will of men, who can serve God and go to heaven without them."[170] This does not mean that men need not obey the laws of the church, however.

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[166] Taylor, IX, 183. See also X, 20-27.

[167] Taylor, X, 13.

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[168] Taylor, X, 501-513; 517-532.

[169] Taylor, X, 394.

> [H]e may not break the law when he please, but when he cannot keep it; not when he is not in the humour, but when he is not in the capacity; not because he will, but because without great evil he cannot.[171]

Rule 18 is even closer to the case in question: "Ecclesiastical laws of ceremonies and circumstances of external observance do not bind the conscience beyond the case of contempt and scandal."[172] Ceremonial laws, Taylor explains, are made to promote order and decency, which are relative terms. They oblige the conscience "only so long as they can minister to the end of their designation, but no longer." After the reason for a ceremonial law disappears but before the law has been annulled, it binds the conscience only in so far as man is obliged to treat the authority which imposed it with honor. Taylor's advice for cases of this kind sounds very much like Sanderson's resolution of "The Case of the Liturgy": "Though for the obedience itself in this case there is no absolute obligation, but the not-obeying is to be conducted humbly, inoffensively, prudently, and regardfully."[173]

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[170] Taylor, X, 395.

[171] Taylor, X, 395.

[172] Taylor, X, 391.

In this way, Ductor Dubitantium provides rules and examples which cover cases of conscience dealing with the laws of ecclesiastical uniformity. Taylor, like Sanderson, tries to formulate a comprehensive and flexible approach to moral questions which will protect the principle of hierarchical church government and uniformity of worship without sacrificing the needs and lawful prerogatives of the individual within the structure of the church.

The other type of case of conscience which developed from the tension between the ideals of Christian unity and the sovereignty of the individual conscience concerned variety in matters of faith, rather than external action, and the possibility of individuals or groups lawfully functioning outside of the national church. The information available on Taylor's opinion on the question of toleration is both plentiful and confusing. The Taylor of The Liberty of Prophesying has been eulogized as a humane and enlightened prophet of toleration far ahead of his time. The Taylor of the case of conscience signed by twelve Anglican clergymen seems to be an advocate of strict religious uniformity willing to compromise for motives of political expediency. Taylor's biographers inevitably try to reconcile these apparently inconsistent positions, but, for the purpose of this study, such information is less important for its part in a comprehensible portrait of a man than for the light it may throw on Taylor's casuistry.

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[173] Taylor, X, 393.

As I pointed out earlier, the seventeenth-century proponents of toleration tended to fall into two groups. Those who, like Williams, saw a wide gap between the order of grace and the order of nature based their support of toleration on a concept of the church as a relatively small assembly of true believers and on the idea of Christian liberty. Those who, like Chillingworth, were more interested in the power of natural reason, based their advocacy of toleration on the absence of infallible arbiters of truth and the inviolability of the individual conscience. The logical outcome of the liberal Puritan approach is a strict separation of church and state, a commonwealth in which a multitude of churches embracing various doctrines and disciplines flourish without interference from the secular government. The logical outcome of the liberal Anglican position is a national church which provides a comprehensive framework for the common worship of God and which encourages freedom of thought. There are obvious limitations to both approaches. Williams' solution to the problem abolishes any excuse for persecution by the state, but it gladly narrows the true church to a highly intolerant institution admitting only the small minority who are eternally elected to salvation and willingly abandons the majority of men to perdition. Chillingworth's position, on the other hand, provides a basis for that spiritual unity whose absence has been lamented so frequently in the modern world, but has no real remedy for those who prefer not to be included in a comprehensive national church or who disagree violently about even the fundamental tenets of belief. For Williams, these objections to his proposals can be answered by appeal to the doctrine of predestination, but for the Anglicans, difficult cases of conscience were bound to occur on the edges of comprehension.

Taylor, as we have seen, was, in The Liberty of Prophesying, closely allied to men like Chillingworth on the question of toleration.[174] Ductor Dubitantium records no substantial change in his position. He sees the English church as a comprehensive national institution whose power lawfully extends only to setting forth persuasively the commandments of God and regulating indifferent things in the interests of decency and order. He insists that the essential doctrines of the church are so basic and so widely known that the church should have no occasion to censure men for the faith they believe in.[175] Even pagans, he suspects, have enough knowledge of God to be saved.

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[174] Men who supported toleration in the seventeenth century seem willing, however, to claim whatever allies they could. In spite of their radically different theological positions, Roger Williams praised Taylor's book very highly to a Mrs. Sadlier, who was, however, unimpressed and replied that from what she had heard the books of Williams and Taylor should be relegated to a common bonfire. Reported by Jordan, III, 505.

> I am not here to dispute what is likely to be the condition of heathens in the other world: it concerns not us, it is not a case of conscience: but we are sure that all men have the law of God written in their hearts; that God is so manifested in the creatures, and so communicates Himself to mankind in benefits and blessings, that no man hath just cause to say he knows not God. We see also that the heathens are not fools, that they understand arts and sciences, that they discourse rarely well of the works of God, of good and evil, of punishment and reward: and it were strange that it should be impossible for them to know what is necessary, and stranger yet that God should exact that of them which it were not possible for them to know.[176]

Taylor does not, therefore, believe that only orthodox Christians will attain eternal salvation. Truth has many degrees, and men will be saved according to their fidelity to the truth which their own abilities and experiences have revealed to them. Men have no justification for condemning those whom God will reward or for persecuting men in this world for the good of their souls in the next.

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[175] Taylor, X, 616, 321.

[176] Taylor, X, 616.

The church must not only open her doors to all who profess the fundamentals of faith, she must also be very careful in the exercise of her lawful power that she does not accidentally oppress men's consciences. Articles of belief, as I have said, may be imposed only when necessary for the peace of the church; otherwise their imposition is proof of "imprudent forwardness, or itch of empire over consciences."[177] Such articles should require nothing but clear commandments of God.

> /B/ut if the conscience cannot be bound to the article, and the profession serves no necessary end of the commonwealth, then God does not bind, and men cannot: and therefore to bring evil upon men that do not believe the article, and dare not profess to believe what they do not, is injustice and oppression.[178]

While the governors of the church have the power to make laws in indifferent things, they must do so in a way that does not infringe on Christian liberty.[179] No ecclesiastical law is binding if it is taught as necessary doctrine, for men have been warned to "Stand fast in the liberty with which Christ hath made you free, and be not again entangled in the yoke of bondage," and have been reproved for teaching the commandments of men for doctrines.[180] Those who persecute breakers of ecclesiastical laws as severely as breakers of divine commandments are as guilty of teaching the opinions of men for doctrine as are those who expressly teach that their own inventions are the word of God.

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[177] Taylor, X, 448.

[178] Taylor, X, 449.

[179] Taylor, X, 377.

> For if there be any liberty of any sort left after an indifferent action is made into a law of man, it is all destroyed by them who give less liberty to the transgression of that law than to the breach of God's law, under which there is left no liberty but the liberty of a cheerful and voluntary obedience. For they that do such things must needs at least say that such human injunctions are as necessary as the divine commandments; for why else are they more severely punished?[181]

Taylor envisions a church which is genuinely tolerant: it easily includes men of different opinions in controversial issues; it acknowledges that it has no power over men's consciences beyond the express commandments of God; it uses its power gently and charitably, taking care not to raise stumbling blocks for men's consciences. Taylor's belief that human reason is unreliable and that the church and Christian tradition are fallible interpreters of divine truth lead him to a position where he cannot support persecution of heresy. Neither the governors of the church nor of the state can in good conscience set themselves up as infallible spokesmen of divine truth. The Christian prince must never erect a law which condones actions forbidden by the laws of Christ, but he may promise impunity to disputable religious opinions which he believes to be contrary to the laws of Christ, because such controversial questions are uncertain and "no man is fit to punish the error but he who is certain, and can make it appear so to others, that himself is not deceived."[182]

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[180] Gal. v. 1. Taylor, X, 378-379.

[181] Taylor, X, 318.

But there are limits to Taylor's ideas of religious freedom. Although he would tolerate all men who are willing to worship peacefully within the national church and supports the lawful authority of the Christian prince to tolerate false religious opinions in the state, he nevertheless maintains that the bishops of the church have the power to make laws which bind the conscience and that the supreme civil authority has the power to enforce the laws of the church. The Christian king is accountable to God for the souls of his people and he must prohibit new religions for reasons of prudence, justice and piety:

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[182] Taylor, IX, 477.

> Not that it is lawful for a prince to persecute the religion of any other nation, or the private opinion of anyone within his own; but that he suffer none to be superinduced to his own to the danger of peace and public tranquillity. The persuasions of religion are not to be compelled; but the disturbances by religion are to be restrained by the laws .... But against the law no man is to be permitted to bring in new religions.[183]

Taylor, then, draws the line of toleration at "public tranquillity." The church which requires subscription to articles of belief in non-fundamental matters is more guilty of schism than those who dissent from her. The Christian prince is morally responsible for the creation of a national church which does not teach the commandments of men for doctrine, which unifies men under the mild yoke of Christ, and which deals gently with her erring sons. He must allow men to believe anything they think right about such perplexing questions as predestination and original sin and must not require external forms of worship which will raise scruples among men of good will. He may, in addition, permit religious opinions which he believes to be fundamentally false when such permission is necessary to keep the public peace. Toleration of religious opinions which uphold the fundamentals of Christianity and are consistent with the peace of the state is both lawful and necessary, but toleration of opinions which are directly contrary to the fundamentals of faith is never necessary and is lawful only when it serves the public good.[184] And Taylor attributes the authority for determining what beliefs are fundamental and what beliefs are consistent with the public peace to the supreme temporal authority.

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[183] Taylor, X, 211.

From the point of view of the individual, toleration is limited, according to Taylor, at the point of defiance of lawful authority. Men must never repudiate the authority of their kind or their church. If they do, the church may lawfully punish them with spiritual censures and the king may punish them with temporal penalties. At the same time, of course, men must never disobey their own consciences. They must follow their own consciences even against the advice of just authority.[185] Taylor has, therefore, no solution to the problem of a conflict between the individual conscience and the will of a lawful authority. He allows considerable scope for individual action with regard to particular human laws. Man may assume that laws are intended for the public good and in certain circumstances may disregard a law which produces personal suffering rather than edification. But he may never deny the power of the state and the church to make laws. A man who in conscience cannot accept this authority has no alternative but to sin.

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[184] Although his emphasis is different in The Liberty of Prophesying, Taylor limits toleration there at exactly this point. Taylor, V, 534-535, 591.

[185] Taylor, IX, 143.

> He that makes assemblies against the prelate, and thinks he may lawfully do it, does an action for which by the laws he is punishable; but to God he is to answer besides the action, for the sin that led him to that error.[186]

Ductor Dubitantium does not solve the moral problem of toleration conclusively. Taylor still maintains, as he did in The Liberty of Prophesying, that persecution is dangerous, that men are bound to differ in religious opinions, and that no church has a monopoly on the truth. He attributes to the Christian prince the authority to tolerate dissenting religions, but he does not say that toleration is necessary or even desireable. His belief in the extent of God's grace and the nobility of the struggle of the fallible human reason in the fallen world is so great that he seems willing to include heathens, and presumably Jews, among those understanding the necessary fundamentals of faith, but he does not give specific advice about tolerating Jews or particular groups of Christian dissenters.[187]

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[186] Taylor, IX, 137.

[187] In The Liberty of Prophesying he specifically recommended toleration of two of the most generally feared groups, Roman Catholics and Anabaptists, and seems to have assumed that Jews were already tolerated. Taylor, V, 540-601.

Although Taylor's behavior at the Restoration is not an out-and-out betrayal of his earlier principles, it reveals him to be more concerned to restrain license than to protect liberty. When he was made Bishop of Down and Connor he ejected thirty-six Presbyterian ministers from their livings. His action was not prompted by a desire to purge the church of unorthodox theological opinions, but by the Presbyterians' adamant refusal to recognize his authority as bishop. Taylor's apologists justify this action on the grounds that he was faced with an almost insurmountable problem in Ireland, where most of the people were Roman Catholics and most of the clergy of the Church of Ireland were steadfast Presbyterians. Taylor's treatment of the Presbyterian ministers, they point out, is not inconsistent with the principles enunciated in The Liberty of Prophesying, for Taylor had argued for a comprehensive church and for toleration of other churches outside of the establishment but had never conceded that men who remained within the established church should be permitted to disregard its order and disciplines.[188] This is certainly true, and we can sympathize with Taylor's administrative problem of trying to govern responsibly men who refused to recognize his authority.

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[188] Brown, pp. 30-33, 85-86; Gosse, pp. 178-182; Hughes, pp. 11-13, 154; Stranks, pp. 229-243.

At the same time we need to recognize that Taylor's dilemma demonstrates the weakness of his theoretical position. When the state permits no religion outside of the establishment and when the established church includes an institution as bitterly controversial as episcopacy was in the seventeenth century, then it is nonsense to insist as Taylor did, that "ecclesiastical laws must ever promote the service of God and the good of souls; but must never put a snare or stumbling block to consciences."[189]

Taylor's treatment of the dissenting ministers is technically consistent with his position that the church has spiritual but not temporal coercive power and that erring Christians should be dealt with gently, since he did not recommend temporal punishment but simply declared their livings vacant. Actually, however, in the situation of a radical shift in the religious laws of the land, he imposed a severe temporal punishment by depriving them of their livelihood and their opportunity of following their calling. In this case Taylor revealed the weakness of his espousal of Christian unity based on a distinction between fundamental and non-fundamental or controversial beliefs, when he failed to admit that the lawfulness of episcopacy was a highly controversial belief. He also displayed the inherent contradiction in his simultaneous championship of the liberty of the conscience and of the absolute power of the king over religion. And, finally, his own actions were marked by a highly uncasuistical disregard for particular circumstances.

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[189] Taylor, X, 404.

This incident in Taylor's career as a bishop dramatizes the weaknesses of his casuistry in practice, but it should not blind us to the nobility of his ambition or his very real success in Ductor Dubitantium. Although his "instrument of moral theology" does not demonstrate a way to resolve satisfactorily every case of conscience on the problem of unity and uniformity, it covers a great many possible cases and usually manages to maintain the precarious balance of individual liberty between the extremes of license and inflexible legalism. Taylor defends the freedom of individual action by positing a moral hierarchy in which Christian charity and the public good supersede the letter of the law and divine law supersedes human law. He defends order against moral anarchy by basing the sanctions of individual liberty on the hierarchy of moral laws rather than on the emotional conviction of the individual.

Taylor has been criticized for undermining the foundation of this complex moral structure by questioning the reliability of all authorities for knowledge of the divine will; he says that although scripture is the perfect digest of the divine law for man, tradition, human authority, and reason are all fallible interpreters of scripture. It has also been objected that Taylor's view of natural law confuses the natural with the supernatural.[190] But these modifications of traditional theology are really the strength of Taylor's casuistry. He repudiates a static notion of morality and discovers the determining element in moral actions in the liberty of choice guided by reason. Human reason is certainly liable to error--we see through a glass darkly--but the enlightened human reason is able to learn to distinguish good from evil in human experience. And this process of choice is not simply a means for conforming to the law, but is essential to the divine plan for the progress of the soul. Difficult moral questions and the complexities of the world are not traps for the unwary, but part of the regenerative educational process of human experience. This belief in the efficacy of reason and the freedom of the will saves Taylor from bitter cynicism and from an impractical idealism in the face of the crumbling institutions and ideals of the seventeenth century. Even though his horror at civil disorder occasionally betrayed him into a championship of royal authority inconsistent with his moral theology, he was largely successful in what he set out to do in Ductor Dubitantium. He explains the process by which he believed that man could reach heaven through the vagaries of human experience. The individual human conscience remains the focal point of his casuistry, and he explains the relationship between the conscience and moral absolutes as the process of the reason resolving doubts by discovering the relevant moral laws in a particular set of circumstances. It is here that the comparison of Taylor with Milton, which has been traditional since Coleridge, has its greatest relevance.[191] In theology, in politics, in style and temperament they were very different, but Taylor, like the greater English humanist in Samson Agonistes, was led by the tension between liberty and license to concentrate on the decision-making process and to try to discover the sanctions of individual action in personal experience. Taylor's success is incomplete, and Ductor Dubitantium does not solve the problem of the relationship between the particular and the general in literary form or in theory. Still, its comprehension, its balance, and its humanity, I think, adequately refute Coleridge's remark that Taylor's opinion or thought exists in his stylistic eloquence "all weather-eaten, dim, noseless, a Ghost in Marble."[192] Coleridge's fuller judgment is nearer the mark. Taylor, he wrote, possessed broad and deep erudition, acute and subtle logic, fine yet secure psychological insight, public prudence and practical sageness; he lacked only high creative faith and imagination to be a great creative genius.[193]

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[190] McAdoo, pp. 40-44.

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[191] S. T. Coleridge, Miscellanies, Aesthetic and Literary, ed. T. Ashe (London, 1892), p. 210-212. Coleridge acknowledges the differences between the republican Milton, "austere, condensed, imaginative, supporting his truth by direct enunciation of lofty moral sentiment and by distinct visual representations" and the royalist Taylor "eminently discursive, accumulative, and...agglomerative; still more rich in images than Milton himself, but images of fancy...unsurpassed even by the schoolmen in subtlety, agility and logical wit, and unrivalled by the most rhetorical of the fathers in the copiousness and vividness of his expressions and illustrations." He finds their resemblances "in genius, in learning, in unfeigned piety of life, and in benevolent aspirations and purposes for the moral and temporal improvement of their fellow creatures." Coleridge's choice of Milton and Taylor as examples seems to be based less on any intrinsic similarities between the two men than on the fact that they both wrote defenses of toleration and can be used to support his contention that vividly horrible poetic images are not necessarily signs of an intolerant and vengeful spirit.

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[192] Letter of Nov. 3, 1814. Collected Letters of Samuel Taylor Coleridge, ed. E. L. Griggs (Oxford, 1959), III, 541.

[193] Coleridge, Collected Letters, pp. 954-955.

Chapter VII

Conclusion

The modern world has substituted the ideal of toleration for the ideal of Christian unity so completely that our attempts to study the Renaissance conception of man's relationship to other men in Christendom are inevitably influenced by our own strong convictions. As a result, accounts of the problem of unity and uniformity in England during the seventeenth century usually are concerned with tracing the gradual development of the ideal of toleration. In a treatment of the topic from this point of view men like Taylor and Barlow emerge as searchers for truth who occasionally catch a glimpse of the still distant ideal of universal toleration, and men like Sanderson do not appear at all. Examining the cases of conscience which these three men wrote on problems allied to that of unity and uniformity proves that from their point of view at least their significant work was less an attempt to reach a new but imperfectly realized social ideal than it was an effort to show men how best to live in the world without compromising their immortal souls. Their common failure to reach the modern ideal of complete religious liberty was not caused simply by their short-sightedness or their timidity but by some of their most cherished beliefs. The Anglican casuistry during the ten years covered in this study should convince us of how very difficult and complicated the problems arising from the tension between the individual and the unified church were to those men who actually experienced them.

The modern ideal of toleration developed gradually and these men contributed to that development. The nature of their contribution, however, can best be understood within the context of their own ideas about what they were doing and in terms of the particular issues they were actually treating. Even the most conservative of Renaissance Englishmen believed in the liberty of the conscience. Difficult cases of conscience developed because they also believed in the ideal of unity in truth. Religious toleration could not succeed even as an ideal unless it could be shown to possess, as Owen Chadwick puts it, "a moral imperative comparable in degree with the moral duty of loyalty to truth."[1] In their attempts to relate particular human actions to universal moral law in situations involving the individual's relationship to the unity of the church, the casuists tried to find a way of preserving the liberty of the individual conscience without sacrificing the standards of truth. To the extent that toleration is a positive good and not simply an expedient made possible by apathy, it presupposes respect for the individual conscience and the belief that the uniqueness of time and place is morally significant. The Renaissance casuist's most important contribution to the idea of toleration, then, is probably his method of viewing morality as problematic action to be analyzed in terms of moral law, individual conscience, and particular circumstance. In these terms, Sanderson's cautious adjustment of traditional law to the needs of an individual human predicament is more impressive than Barlow's more sweeping compromises based on expediency.

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[1] **Nuttall**, Geoffrey F. and Owen Chadwick, eds., From Uniformity to Unity 1662-1962 (London, 1962), p. 9.

The Anglican casuistry on the problem of unity and uniformity is most interesting and significant when it is seen as an expression of the characteristic Renaissance ability "to separate the eternal and absolute from the contingent and changing, to distinguish those things that constitute the unalterable, 'natural' circumstances of human effort."[2] The Renaissance had inherited the medieval habit of seeing human actions *sub specie aeternitatis*. To the medieval mind all human actions were, in a sense, re-enactments either of Adam falling or Christ saving, and when particular human moral action was treated in literature it was characteristically related to these great dramas of the soul either literally or through conventional schemes and symbols. The literature of the English Renaissance was also overwhelmingly Christian. It viewed human action in relation to transcendental realities and attempted to lead men to salvation, but it also exhibited a great interest in the temporary and the mutable in human experience. The great imaginative works of the poets are, of course, the most brilliant expressions of this focus on the particularity of human life; the casuistical concern with the uniqueness rather than the typicality of a given human action is another manifestation of this Renaissance perspective. The Anglican casuists were theologians and moralists, but, while they were independent in judgment and sometimes heterodox in doctrine, they were not theoretical innovators in moral philosophy or theology. They were, however, exceptional among theologians in their constant concern with the problems of actual experience. Like the great preachers, they tried to correct manners and morals and to lead men to God, but their primary concern was not to elucidate the great moral truths or to soften stony hearts but to disentangle the mingled good and evil in particular and actual situations.

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[2] Arthur B. Ferguson, *The Articulate Citizen and the English Renaissance* (Durham, N. C., 1965), p. xvi.

Because they were trying to solve difficult moral problems, the casuists addressed themselves to men's intellects rather than to their emotions. Sir Philip Sidney had maintained that "our erected wit maketh us know what perfection is, and yet our infected will keepeth us from reaching it."[3] But the casuists writing in the middle of the seventeenth century were apparently less certain that men knew what perfection was in particular situations. English casuistry significantly did not develop into a vital and popular literary form until a time when the authority of all of the traditional custodians of the truth had been severely shaken. Robert Sanderson, Thomas Barlow, and Jeremy Taylor assumed both that Christian precepts were totally obligatory and that men had to live in the world, and they turned to casuistry in an effort to discover the possibility of perfection in action in a far from perfect world. The casuistical method was to apply universal moral truth to a particular human action. The casuist's problem was to discover the relevant moral precepts and to relate them accurately to a particular case with its unique combination of human motives, surrounding circumstances, and probable consequences. These three Anglican casuists approached this problem without the support of any infallible authority and relied instead on their own skill in constantly adjusting the testimony of scripture, tradition, and reason to the requirements of a particular case. The written cases of conscience which they produced were examples of this casuistical method in operation. The cases demonstrated the casuistical principle that each human action is unique and simultaneously provided a model of the decision-making process to be imitated by all men with similar cases of conscience.

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[3] Sir Philip Sidney, The Defence of Poesie, ed. Albert Feuillerat in The Prose Works of Sir Philip Sidney (Cambridge, 1963), III, 9.

The basic problem in the cases dealing with unity and uniformity was the tension between the rights of the individual and the prerogatives of the corporate body of the church. Neither Sanderson, Barlow, nor Taylor succeeds in resolving this tension completely, but their respective efforts to make this tension bearable are interesting and varied. Sanderson's two cases on the Engagement and the Liturgy explore the individual's relationship to the complex social fabric and suggest ways in which unity can be preserved without complete uniformity. Barlow's two cases on tolerating Jews and Christian dissenters adapt the casuistical method to the problem of forming public policy and propose compromising the ideal of unity and uniformity in the interests of the greater national goal of peace. In an attempt to resolve the basic conflict between the casuist's assumption that each individual case is unique and the assumption that a model case may be helpful to all men, Taylor's Ductor Dubitantium enlarges the casuistical form into a general "instrument of moral theology" which explains and demonstrates the method by which cases of conscience should be solved. Taylor, like Sanderson and Barlow, defends the lawful authority of the church and state but attempts to protect the freedom of the individual conscience by broadening men's conception of the unified Christian church.

That none of these men was entirely successful in reconciling the demands of Christian unity with those of the individual conscience should not detract from their interest for modern readers. The goals that they set for themselves were high, and their value for the student of Renaissance literature is not in the answers they suggested but in the method with which they tried to deal with moral dilemmas and the form which they tried to impose on the chaos of experience. Their failure to find a literary form adequate to deal with the uniqueness and universality of a man making a moral decision poses a more important limitation to our interest in their casuistry, but it should not blind us to their partial success. The kind of experience they deal with is real and important, and their casuistical method allows them to shape that experience into comprehensible form without undue oversimplification.

The casuists' refusal to oversimplify is, however, the aspect of their work which has proved most offensive to modern readers. Thus, when a modern critic writes about "Shakespeare as Casuist" he is suggesting that in his "problem plays" Shakespeare is playing with moral questions, "adjusting immediate legalism to ultimate indeterminations."[4]

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[4] Wylie Sypher, "Shakespeare as Casuist," Sewanee Review LVIII (1950), 276.

Thomas Barlow's cases of conscience are, indeed, evidence of the way in which the intricacies of the casuistical method were used to mask an underlying cynicism about the possibility of realizing absolute good in action in the world. The structure and style of his cases exemplify the emptiness of casuistical technique which, according to recent scholarship, John Donne was parodying in Biathanatos.[5] On the other hand, the complexities in the casuistry of Robert Sanderson and Jeremy Taylor usually are not simply "tricks and devices to dance upon the ropes" but reflections of the complexity of their thought in their attempt to see life whole.[6] By trying to treat in detail the theological, moral, psychological, and practical aspects of the decision-making process and in doing so to demonstrate the universal through the particular, they often attempted more than they could accomplish within the boundaries set by literal exposition.

The habit of mind which produced these cases of conscience also informs many works of imaginative literature in the English Renaissance. Since English casuistry originally was mainly oral, it is impossible to establish firmly the influence of casuistry on pre-Caroline literature, but it seems probable that the casuistical form of moral reasoning had its effect on the imaginations of the poets. The central actions of Shakespeare's tragedies are essentially the heroes' attempts to relate the relevant moral laws to their own particular cases, a casuistical procedure which is approached differently by each hero. While Hamlet struggles with his doubting conscience, Macbeth becomes increasingly corrupt through his failure to face his case of conscience honestly. He equivocates himself to hell, not through an overly subtle casuistry, but through an oversimplified approach to human action or a lack of casuistry. Macbeth refuses to acknowledge the complexity of the human condition in which a situation, a desire, or an action may be either fair or foul, good or ill, depending on the particular circumstances surrounding it. Because he is unable to deal with the moral paradoxes of his experience rationally, he chooses to believe equivocal half-truths, to deny the moral foundation of the universe, and to repudiate the good in his own nature.

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[5] Joan Webber, Contrary Music: The Prose Style of John Donne (Madison, 1963), pp. 6-11. Sister Thomas Marion, "Donne's Casuistry: A Study of Biathanatos and Pseudo-Martyr," unpublished Cornell seminar paper (Ithaca, 1956), pp. 14-24.

[6] Jeremy Taylor, The Whole Works, ed. R. Heber, rev. C. P. Eden. Vol. IX, ed. Alexander Taylor (Oxford, 1854), IX, 46.

A close parallel in Renaissance fiction with the cases of conscience on unity and uniformity is John Donne's "Satire III." Although this poem is most often compared with the sonnet "Show me deare Christ, thy spouse, so bright and cleare," Anglican prose casuistry provides a more illuminating context. In this poem Donne assumes the persona of the casuist advising a young man whose confusion over the complexities of institutionalized religion is apparently leading to cynicism, accompanied, perhaps, with a swaggering bravura. Donne, as casuist, begins by addressing the confused questioner personally. Although he responds emotionally to the young man, pitying his predicament and scorning his intellectual laxity, he realizes the unhelpful complexity of his response and the fruitlessness of either scornful laughter or tearful chastisement of sin, and he turns instead to rational discourse. He explains the basic terms of the problem,

> Is not our Mistresse faire Religion,
> As worthy of all our Soules devotion,
> As vertue was to the first blinded age?

and reminds his audience that the stakes for its solution are eternal salvation or damnation.[7] What horrible irony, he laments, if pagan philosophers should be saved on the basis of a good life attained through reason unaided by revelation, while you, able to benefit from Christ's sacrifice and the tutelage of a pious father, throw away the chance of salvation. "O if thou dar'st," he taunts the young man, "fear this"; the battle to save one's soul from the world, the flesh, and the devil requires far greater courage than all the vain struggles of the world against illusory enemies. Having clarified the nature of the problem and established reason as the method of solving it, he draws the inevitable conclusion that one's duty is to "Seeke true religion."

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[7] John Donne, "Satire III" in Donne's Poetical Works, ed. H. J. C. Grierson (London, 1912), I, 154-158.

The general conclusion, however, raises another, more particularized problem--where in the actual world is true religion to be found? Donne's procedure in approaching this problem is to give examples, not of false solutions to the problem, but of inadequate methods of resolving it. Mirreus and Crantz both decide the form of their religion on the irrational basis of taste in externals, preferring the ancient rags of Rome or the plainness of Geneva. Graius simply accepts the national church on the unexamined advice of others. Phyrygius indiscriminately rejects all churches because some of them must be wrong, and Graccus uses the same kind of intellectual laziness to arrive at the opposite conclusion that all are equally right. The casuist thus has shown that all conclusions are ridiculous if they are based on unexamined assumptions and faulty reasoning, but he insists that the problem must be solved. The rational Christian logically must choose a church as the visible manifestation of Christian faith in the world, and the mutually exclusive positions of the various existing churches force him to choose "but one" actual church.

After he has demonstrated that choosing any, none, or all of the major existing churches for inadequate reasons is wrong, Donne recommends ways of searching for "the right" one: tradition and reason.

> ...aske thy father which is shee,
> Let him aske his; though truth and
>   falsehood bee
> Neare twins, yet truth a little elder is;

He suggests tentatively the Anglican position that images should be neither adored nor scorned, but he advises most emphatically an honest, strenuous, personal search for the truth. In a sense, the true path consists in the process of searching for it.

> ...doubt wisely; in a strange way
> To stand inquiring right, is not to stray;
> To sleepe, or runne wrong, is.

Although truth is whole and unchanging, its attainment, he warns in a famous passage, is difficult and sometimes circuitous. The duty to seek it, however, is imperative and possible. The importance of the issue requires immediate action, and, just as the body can endure the pains of hard physical action, the endeavors of the mind can reach difficult knowledge.

The casuistical speaker has, then, in a way similar to Sanderson's and Taylor's casuistry attempted to deal with a moral dilemma by demonstrating the process by which it can be solved. He has placed the problem in the context of the individual speaker, while simultaneously showing it to be an example of a universal moral question. He has admitted the problem as real and difficult, but he has denied that its complexity absolves man from the duty of choosing the greatest good among the possible alternatives. He has clarified the problem in terms of existing historical circumstances and the conscience of the individual agent, and he has insisted that thought and action are inseparable and that while the ultimate mysteries of faith are not susceptible to rational analysis, the remoteness of truth in human experience necessitates tortuous intellectual exercise. Donne ends his poem by stressing the inviolability of the individual conscience ("Keepe the truth which thou hast found") and by explaining this casuistical principle with reference to the limits of human authority: "That thou mayest rightly obey power, her bounds know." Men owe obedience to human laws, but ultimately each man is responsible for his own action and is forbidden to subject his conscience to any human authority. To obey an unjust human law instead of the law of God is to court damnation.

> So perish Soules, which more chuse men's unjust
> Power from God claym'd, then God himselfe to
> trust.

Looking at Donne's third Satire as a dramatization of a case of conscience largely explains its attitude toward truth which some critics have found strange and somehow inaccessible to the modern reader. J. B. Leishman, for example, correctly notes that in the satire the "saving truth is in a sense, factual rather than doctrinal, and to be attained, not in some beatific vision; but as the result of a long and laborious process of historical, or semi-historical, research....by a careful comparison of rival arguments about a matter of fact." He laments that a mind "so acute and sceptical as Donne's" should have failed to see the obvious incongruities between ideas and facts, "truths of religion and truths of history."[8] Donne's insistence on the relevance of historical fact to religious truth is a manifestation of the casuist's attempt to relate universal moral law to the particularities of actual human experience. It is not, as Leishman says, an instance of Donne's failure to portray what is universal in human psychology, but an expression of Donne's sensitivity to the particular dramatic situation he is creating.

Understanding the dramatic situation and casuistical principles of "Satire III" also explains how its tone differs from that of Donne's sonnet on the Church. "Show me deare Christ, thy spouse, so bright and cleare" is a plea to Christ to reveal the true Church. In tone, it is sometimes imploring, sometimes mocking, always personal. The third Satire, however, is calm and hortatory. The speaker is not acting out his own spiritual struggle, but advising another man with a moral problem. He sympathizes, mocks, and scolds, but primarily he explains the urgency of the problem and the rational process through which it can be solved.

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[8] J. B. Leishman, The Monarch of Wit (London, 1962), pp. 116-117.

The men whose prose casuistry is examined in this study are not as moving or as dramatically effective as Donne in his third Satire. We should, nevertheless, understand and appreciate the energy, the intellectual honesty, and the moral insight of their efforts. These Anglican casuists were not sophists or simple-minded legalists. Their casuistry reflects the phenomenon which A. E. Malloch has observed in Donne's interest in casuistry: a "passionate concern for the reality and activity of the human self and at the same time [an] intellectual absorption in an external world of law."[9]

The work of these seventeenth-century casuists is misunderstood and disparaged largely because it flourished so briefly and failed to give rise to a tradition which would make it readily accessible to later generations. The pressing need for systematic and learned theological treatment of the complications produced by the friction of man's worldly life against his spiritual life seems to have appeared and disappeared in England with the seventeenth century. The major works of English casuistry did not appear until after 1650 and even then men complained of their scarcity. The demand for casuistry remained strong immediately following the Restoration, but cases of conscience were becoming rather old-fashioned in the nineties. Only some fifty years after the monumental work of the Caroline divines, when Alexander Pope banished Belinda's lock to a celestial haven for trivialities, he furnished this lunar sphere with such meaningless inconsequentials as

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[9] A. E. Malloch, "John Donne and the Casuists," Studies in English Literature 1500-1900, II (Winter 1962), 75-76.

> Cages of gnats, and chains to yoke
>   a flea,
> Dried butterflies, and tomes of casuistry.[10]

The eighteenth century solved its moral dilemmas in other terms and succeeding eras have followed suit. The judgment of history has often, in fact, been harsher than mere disregard. In his Lettres Provinciales, Pascal condemned Jesuit casuists for using the confessional to teach men what they might do with legal impunity rather than to guide them in a true search for a peaceful conscience through virtuous actions. Casuistry has never recovered from his scathing attack.[11] DeQuincey in the nineteenth century made an effort to distinguish between the essentials of casuistry and its bad name, but he seems to have provoked little interest among his contemporaries.[12] In the twentieth century casuistry retains the connotation of tedious and futile quibbling which it held for Pope and the association with hypocritical legalism that it had for Pascal. While to a Renaissance man of affairs like Bacon it was the most practical form of theology, to the twentieth century casuistical divinity seems fruitless and rather sinister. Dusty tomes of cases of conscience remain undisturbed on library shelves, and the word "casuistry," if it means anything at all to modern readers, usually implies the devious means by which men used to reconcile child labor and slavery with Christian idealism.

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[10] Alexander Pope, The Rape of the Lock, ll. 121-122.

[11] Blaise Pascal, Lettres Provinciales (Paris, 1656-1657).

The radical change in men's attitude toward casuistry during the last three hundred years is clearly only one manifestation of an intricate network of developments. Although Edmund Gosse attributes the disappearance of casuistry to the fact that the world "has shelved its scruples altogether, or has generously simplified them," a more accurate explanation is perhaps the change in man's conception of and approach to his moral dilemmas rather than an actual coarsening of his moral sensibility.[13] It is true that the most obvious modern equivalent to casuistical literature, the advice to the lovelorn in the popular press, tends to handle ethical questions in a rough commonsensical fashion, but the appreciation for deft and searching consideration of nice moral distinctions has certainly not vanished from the modern novel. The world has become less interested in theology, however. While most men now solve their problems in secular terms, in Renaissance England men acknowledged no division between political, economic, and religious concerns. They disagreed violently about how the church should be constituted and the nature of its relationship to civil authority, but no one questioned the pertinence of religious truths to all human behavior. In such a world, the appeal to the clergy on a variety of matters that now seem quite beyond their proper sphere was natural.

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[12] Thomas DeQuincey, "Casuistry" in The Collected Writings of Thomas De Quincey, ed. David Masson (Edinburgh, 1890), VIII.

[13] Edmund Gosse, Jeremy Taylor (London, 1903), p. 164.

The increased secularization of society does not completely account for the unpopularity of casuistry, however, for it has suffered an eclipse more total than has most other Renaissance religious literature. This disproportionate modern neglect can be at least partially explained by the considerable length of most works of casuistry and by their texture of ratiocination, rarely relieved by soul-stirring eloquence or personal narrative. The tone of the casuist is usually calm and measured, for his job is not to persuade men to do what they know they ought, but to point to the right path for those who are sincerely confused about where it lies. Cases of conscience arise when men's consciences do not dictate clearly a possible course of action, and, since the Anglican casuists define the conscience as a faculty of the enlightened understanding, their works are not designed to move the apostate will to choose the good, but to enlighten the understanding so that the good will be recognizable in the tangled web of good and evil in a fallen world. Because this web is so tangled and circumstances so complex, casuistry must proceed with caution. As a result, although casuistry is by no means without passages of charming personal reminiscence and reflection, impassioned eloquence, and wit, for the most part it consists of painstaking considerations of various convolutions of circumstances and minute distinctions of moral responsibility.

The theological assumptions, the rational tone, the patient discussion of innumerable fine points of doctrines which on the surface seem to be clear moral imperatives have combined to give casuistry a bad name. The charges of hypocritical sophistry and senseless quibbling which Pascal levelled against casuistry had been voiced often before. These are the very criticisms which the casuists themselves make of their opponents. Jeremy Taylor repeatedly charges Jesuit casuistry with making unnecessary complications and indulging in specious reasoning:

> So it is in moral theology; what God
> had made plain, men have intricated,
> and the easy commandment is wrapped
> up in uneasy learning; and by the new
> methods a simple and uncrafty man
> cannot be wise unto salvation, which
> is but small comfort to him that stands
> in the place of the idiot and unlearned.[14]

Before Pascal, however, these denunciations were of the abuses of a worthwhile discipline. Hair-splitting discussions about such topics as the obligations of unlawful contracts, the necessity of kneeling or of not kneeling at prayers, the extent of a father's authority over his children seemed to the pious Englishman in Tudor England not senseless quibbling over inessentials but meaningful examinations of urgent problems. The laborious specificity of the casuist sometimes becomes tedious, and his rigorous analysis may appear as the ostentatious display of his logical facility and learning. To the suspicious, moreover, involved reasoning about the precise extent of one's moral obligation can seem too cold-hearted at best and, at worst, the attempt to rationalize selfish motives. The casuists, however, felt their responsibility too keenly to allow oversimplification, for "of all things in the world, in these things an error is the most intolerable."[15] The stakes were eternal life or death and could not permit laxity. The usefulness of the casuist, moreover, depends on his closely approximating the specific situations men actually encounter and his recognition of the complexity of many of the moral decisions men must make. Obvious moral duties require no casuistry, but circumstances can obscure the application of any precept, no matter how universal its acceptance in theory. Christians agreed that lying, murder, and disobedience were sins, but the realizations of these principles in action could become difficult in situations where to obey one's lawful sovereign was to kill or where to tell the truth was to cause the death of an innocent person. It was such conflicts of duties as these that the casuists tried to solve. Religious prose may be more palatable to the modern sensibility when it is heightened by the emotional appeals of the pulpit or the invective of political rivalry, but the unruffled and rational voice of the casuist is also an essential component of Anglicanism during this period.

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[14] Jeremy Taylor, Works, IX, xii.

[15] Ibid.

SELECTED BIBLIOGRAPHY

Abraham, Lionel. "Menasseh ben Israel's Mission to Oliver Cromwell," *The Jewish Quarterly Review*, XIV (1902), 1-25.

Allen, J. W. *English Political Thought, 1603-1660*. London, 1938.

________. *A History of Political Thought in the Sixteenth Century*. London, 1928.

Aristotle. *The Rhetoric of Aristotle*, trans. Lane Cooper. New York, 1932.

Ames, William. *Conscience with the Power and Cases thereof* .... London, 1639.

Ascham, Anthony. *Of the Confusions and Revolutions of Governments*. London, 1649.

Bacon, Francis. *The Letters and Life of Francis Bacon*, ed. James Spedding. 7 vols. London, 1861-1874.

Barker, Arthur. *Milton and the Puritan Dilemma 1641-1660*. Toronto, 1942.

Barlow, Thomas. *The Genuine Remains of that Learned Prelate Dr. Thomas Barlow, late Lord Bishop of Lincoln*.... London, 1693.

________. *Several Miscellaneous and Weighty Cases of Conscience, Learnedly and Judiciously Resolved*.... London, 1692.

Batten, J. Minton. *John Dury Advocate of Christian Reunion*. Chicago, 1944.

Birch, Thomas. *The Life of the Honorable Robert Boyle*. London, 1744.

The Book of Common Prayer, and Administration of the other Rites and Ceremonies of the Church of England. London, 1604.

Boyce, Benjamin. *The Polemic Character 1640-1661*. Lincoln, Nebr., 1955.

________. *The Theophrastan Character in England to 1642*. Cambridge, Mass., 1947.

Bosher, Robert S. *The Making of the Restoration Settlement: The Influence of the Laudians*. New York, 1951.

Bramhall, Rev. J. *Works*, ed. John Henry Parker, 5 vols. Oxford, 1842.

Brown, W. J. *Jeremy Taylor*. London, 1925.

Calamy, Edmund. *An Abridgement of Mr. Baxter's History of His Life and Times*. London, 1702.

The Cambridge Modern History. Planned by Lord Acton, edited by Sir A. W. Ward, Sir G. W. Prothero, and Sir Stanley Leathes. 13 vols. New York, 1934.

Cary, Lucius. His "*Discourse of Infallibility*," *with an Answer to it: and his Lordships reply*. London, 1651.

Certaine Sermons or Homilies appoynted to be read in Churches, in the time of the late Queene Elizabeth.... London, 1633.

Chadwick, Owen. *The History of the Church: A Select Bibliography*. London, 1962.

________ and Geoffrey F. Nuttall, eds. *From Uniformity to Unity, 1662-1962*. London, 1962.

Chillingworth, William. *The Religion of Protestants, a Safe Way to Salvation*....(1637); 12th ed. London, 1836.

Coleridge, Samuel Taylor. *Collected Letters of Samuel Taylor Coleridge*, ed. E. L. Griggs. 4 vols. Oxford, 1959.

________. *Miscellanies, Aesthetic and Literary*, ed. T. Ashe. London, 1892.

________. *Notes on Anglican Divines*, ed. Derwent Coleridge. 2 vols. London, 1853.

Cowley, Abraham. *The Works of Mr. Abraham Cowley*. London, 1668.

Cross, F. L. and Paul E. More. *Anglicanism: The Thought and Practice of the Church of England*. London, 1935.

Davies, E. T. *The Political Ideas of Richard Hooker*. London, 1946.

Davies, Godfrey. "English Political Sermons, 1603-1640," *Huntington Library Quarterly*, III (1939), 1-23.

DeQuincey, Thomas. *The Collected Writings of Thomas DeQuincey*, ed. David Masson. 14 vols. Edinburgh, 1889-1890.

Donne, John. *Donne's Poetical Works*, ed. H. J. C. Grierson. 2 vols. London, 1912.

Earle, John. *Microcosmography*, ed. Philip Bliss. London, 1811.

Ernst, James. *The Political Thought of Roger Williams*. Seattle, Wash., 1929.

Fenn, Percy T. *The Latitudinarians and Toleration*. St.Louis, 1925.

Ferguson, Arthur B. *The Articulate Citizen and the English Renaissance*. Durham, N. C., 1965.

Firth, Sir Charles. *The Last Years of the Protectorate*. 2 vols. London, 1909.

________. *Oliver Cromwell and the Rule of the Puritans in England*. New York, 1900.

Frere, W. H. *The English Church in the Reigns of Elizabeth and James I*. London, 1904.

Fuller, Thomas. *The Church History of Britain*, ed. Rev. J. S. Brewer. 6 vols. Oxford, 1845.

________. Mixt Contemplations in Better Times (1660), ed. William Pickering. London, 1830.

________. *Thomas Fuller's The Holy and the Profane State*, ed. Maximillian G. Walten. 2 vols. New York, 1938.

Gardiner, Samuel R. *The Constitutional Documents of the Puritan Revolution*. Oxford, 1906.

________. *History of the Commonwealth and Protectorate, 1649-1660*. 3 vols. London, 1894-1903.

________. *A History of England from the Accession of James I to the Outbreak of the Civil War*. 10 vols. London, 1893-1895.

________. *History of the Great Civil War.* 4 vols. London, 1886-1891.

George, Charles H. and Katherine. *The Protestant Mind of the English Reformation: 1570-1640*. Princeton, 1961.

Gosse, Edmund. *Jeremy Taylor*. London, 1903.

Hales, John. *Tracts Concerning Schism and Schismatics (ca. 1636)*. London, 1642.

Hall, John. *Of Government and Obedience*. London, 1654.

Hall, Joseph. *Heaven upon earth, and Characters of vertues and vices*, ed. Rudolf Kirk. New Brunswick, 1948.

________. *The Works of Joseph Hall, D. D. Successively Bishop of Exeter and Norwich*. 12 vols. Rev. ed. Oxford, 1837.

Hallam, Henry. *The Constitutional History of England*. 3 vols. New York, 1862.

Haller, William. *The Rise of Puritanism*. New York, 1938.

________, ed. *Tracts on Liberty in the Puritan Revolution, 1638-1647*. 3 vols. New York, 1934.

Hammond, Henry. *The Works of the Reverend and Learned Henry Hammond, D. D.* 4 vols. London, 1684.

________. *The Miscellaneous Theological Works*.... 3 vols. Oxford, 1847-1850.

The Harleian Miscellany. 12 vols. London, 1808-1811.

Hastings, James, ed. *Encyclopedia of Religion and Ethics*. 13 vols. Edinburgh, 1908-1927.

Henson, Herbert Hensley, ed. *Selected English Sermons; Sixteenth to Nineteenth Centuries.* Oxford, 1939.

________. *Studies in English Religion in the Seventeenth Century*. London, 1903.

Herbert, George. *The Works of George Herbert*, ed. F. E. Hutchinson. Oxford, 1941.

Hooker, Richard. *The Works of ... Mr. Richard Hooker*, ed. Rev. John Keble; 7th ed., rev. R. W. Church and F. Paget. 3 vols. Oxford, 1888.

Houghton, Walter E., Jr. *The Formation of Thomas Fuller's "Holy and Profane States."* Cambridge, Mass., 1938.

Hughes, Henry Trevor. *The Piety of Jeremy Taylor*. London, 1960.

Hutton, W. H. *The English Church from the Accession of Charles I to the Death of Anne, 1625-1714*. London, 1913.

Hyamson, A. M. *A History of the Jews in England*. 2nd. ed. London, 1928.

________. "The Lost Tribes and the Return of the Jews to England," *Transactions of the Jewish Historical Society of England*, V (1908), 114-147.

Hyman, J. D. *William Chillingworth and the Theory of Religious Toleration in England*. Cambridge, Mass., 1931.

James I. *The Political Works of James I*. Reprinted from the edition of 1616. Introduction by Charles Howard McIlwain. Cambridge, Mass., 1918.

Jordan, W. K. *The Development of Religious Toleration in England*. 4 vols. Cambridge, Mass., 1932-1940.

Judson, Margaret A. *The Crisis of the Constitution*. New Brunswick, N. J., 1949.

Kayserling, F. *The Life and Labours of Manasseh ben Israel*, trans. Dr. F. de Sola Mendes in *Miscellany of Hebrew Literature*, 2nd series, ed. Rev. A. Lowy. London, 1877.

Kirby, Ethyn Williams. *William Prynne: A Study in Puritanism*. Cambridge, Mass., 1931.

Kirk, K. E. *Conscience and Its Problems*. London, 1927.

Krapp, Robert Martin. *Liberal Anglicanism 1636-1647*. Ridgefield, Conn., 1944.

Laud, William. *The Works of the Most Reverend Father in God, William Laud...*, eds. J. Bliss and W. Scott. 7 vols.

Leishman, J. B. *The Monarch of Wit*. London, 1962.

Levy, Rev. S. "Bishop Barlow on the Case of the Jews," *Transactions of the Jewish Historical Society of England*, III (1899), 151-156.

________. "John Dury and the English Jewry," *Transactions of the Jewish Historical Society of England*, IV (1903), 76-82.

Lewis, George. *Robert Sanderson*. London, 1924.

Long, Edward Leroy, Jr. *Conscience and Compromise: An Approach to Protestant Casuistry*. Philadelphia, 1954.

Malloch, A. E. "John Donne and the Casuists," *Studies in English Literature, 1500-1900*, II (Winter, 1962), 57-76.

Matthews, A. G. *Calamy Revised*. Oxford, 1948.

________. *Walker Revised*. Oxford, 1948.

McAdoo, Henry R. *The Spirit of Anglicanism*. New York, 1965.

________. *The Structure of Caroline Moral Theology*. London, 1949.

McGiffert, A. C. *Protestant Thought before Kant*. New York, 1922.

McNeill, John T. "Casuistry in the Puritan Age," *Religion in Life*, XII (Winter, 1943), 76-89.

M[eredith], W. M., ed. *The Text of the Thirty-Nine Articles of 1553, 1563, 1571*. London, 1889.

Miller, Perry. *Orthodoxy in Massachusetts, 1630-1650*. Cambridge, Mass., 1933.

________. *Roger Williams: His Contribution to the American Tradition*. New York, 1953.

Mitchell, W. Frazier. *English Pulpit Oratory from Andrewes to Tillotson*. London, 1932.

Mosse, George L. *The Holy Pretense: A Study in Christianity and Reason of State from William Perkins to John Winthrop*. Oxford, 1957.

Mueller, William R. *John Donne: Preacher*. Princeton, 1962.

Munz, Peter. *The Place of Hooker in the History of Thought*. London, 1952.

Novarr, David. *The Making of Walton's Lives*. Ithaca, 1958.

Ollard, S. L. and G. Crosse. *A Dictionary of English Church History*. London, 1912.

A Pack of Old Puritans: Maintaining the Unlawfulness and inexpediency of subscribing the new Engagement. .... London, 1650.

Paget, Francis. An Introduction to the Fifth Book of Hooker's Laws of Ecclesiastical Polity. Oxford, 1899.

Pascal, Blaise. OEuvres de Blaise Pascal, ed. Leon Brunschicg and Pierre Boutroux. 2nd ed. Paris, 1923.

Perkins, William. The Whole Treatise of Cases of Conscience, distinguished into three books, ed. Thomas Pickering. London, 1614.

Pocock, N. "Restoration Settlement of the English Church," English Historical Review, I (1965), 677-698.

Procter, Francis. A New History of the Book of Common Prayer, revised by Walter H. Frere. London, 1961.

Prynne, William. A Short Demurrer. London, 1656.

Roth, Cecil. A Life of Menasseh ben Israel. Philadelphia, 1934.

Sanderson, Robert. Nine Cases of Conscience: Occasionally Determined by the late Reverend Father in God, Robert Sanderson, Lord Bishop of Lincoln. London, 1685.

________. Sermons by Robert Sanderson, ed. Rev. R. Montgomery. 2 vols. London, 1841.

________. Several Cases of Conscience Discussed in Ten Lectures in the Divinity School at Oxford, by that most Learned and Reverend Father in God, Doctor Robert Sanderson, now Lord Bishop of Lincoln, trans. Robert Codrington. London, 1660.

________. The Works of Robert Sanderson, ed. William Jacobson. 6 vols. Oxford, 1854.

Shaw, William. A History of the English Church During the Civil Wars and under the Commonwealth. 2 vols. London, 1900.

Shirley, F. John. Richard Hooker and Contemporary Political Ideas. London, 1949.

Sidney, Sir Philip. The Prose Works of Sir Philip Sidney, ed. Albert Feuillerat. 4 vols. Cambridge, 1963.

Sisson, J. C. The Judicious Marriage of Richard Hooker and the Birth of The Laws of Ecclesiastical Polity. Cambridge, 1940.

Sister Thomas Marion. "Donne's Casuistry: A Study of *Biathanatos* and *Pseudo-Martyr*." Unpubl. seminar paper, Cornell University, Ithaca, 1956.

Skinner, Quentin. "History and Ideology in the English Revolution," *The Historical Journal*, VII-VIII (1965), 151-178.

Smith, Lacy B. *Tudor Prelates and Politics*. Princeton, 1953.

Staley, Vernon. *The Life and Times of Gilbert Sheldon*. London, 1913.

Stephen, Leslie and Sidney Lee, eds. *Dictionary of National Biography*. 24 vols. London, 1921-1927.

Stern, Alfred. "Menasseh Ben Israel et Cromwell," *Revue des Etudes Juives*, VI (1882), 96-111.

Steuart, Adam. *Some Observations and Annotations upon the Apologeticall Narration*. London, 1644.

Stoughton, John. *History of Religion in England from the Opening of the Long Parliament to the End of the Eighteenth Century*. 6 vols. London, 1881.

Stranks, C. J. *The Life and Writings of Jeremy Taylor*. London, 1952.

Sykes, Norman. *The English Religious Tradition*. Rev. ed. London, 1961.

________. *From Sheldon to Secker: Aspects of English Church History, 1660-1768*. Cambridge, 1959.

Sypher, Wylie. "Shakespeare as Casuist," *Sewanee Review*, LVIII (1950), 262-280.

Taylor, Jeremy. *The Whole Works of Jeremy Taylor*, ed. Reginald Heber, rev. C. P. Eden. 10 vols. Vol. IX, ed. Alexander Taylor. Oxford, 1854.

Thorton, L. S. *Richard Hooker: A Study of his Theology*. London, 1924.

Trevelyan, G. M. *England Under the Stuarts*. 13th ed. London, 1930.

________. *History of England*. 3rd ed. New York, 1952.

Tulloch, John. *Rational Theology and Christian Philosophy in England in the Seventeenth Century*. 2 vols. Edinburgh, 1874.

Usher, R. G. *The Reconstruction of the English Church*. 2 vols. New York, 1910.

Wallace, John. "The Engagement Controversy, 1649-1652," *Bulletin of the New York Public Library*, LXVIII (June, 1964), 384-405.

———. "Marvell's Horation Ode," *PMLA*, LXXVII (1962), 33-45.

Walton, Izaak. *The Lives of John Donne, Sir Henry Wotton, Richard Hooker, George Herbert and Robert Sanderson.* London, 1927.

Webber, Joan. *Contrary Music: The Prose Style of John Donne*. Madison, 1963.

White, Helen C. *English Devotional Literature 1600-1640*. Madison, 1931.

Whitemore, Anne. "The Re-establishment of the Church of England, 1660-1665," *Transactions of the Royal Historical Society*, 5th series, V (1955).

Williams, Roger. *The Complete Writings of Roger Williams*, ed. S. L. Caldwell. New York, 1963.

Williamson, Hugh Ross. *Jeremy Taylor*. London, 1952.

Wolf, Lucien. "American Elements in the Re-settlement," *Transactions of the Jewish Historical Society of England*, III (1899), 76-100.

———. "The Whitehall Conference," *Transactions of the Jewish Historical Society of England*, V (1908), 279-282.

———. "The Jewry of the Restoration, 1660-1664," *Transactions of the Jewish Historical Society of England*, V (1908), 5-23.

———. *Menasseh ben Israel's Mission to Oliver Cromwell*. London, 1901.

Wood, Thomas. *English Casuistical Divinity During the Seventeenth Century: With Special Reference to Jeremy Taylor*. London, 1952.

Woodhouse, A. S. P. "Milton, Puritanism, and Liberty," *University of Toronto Quarterly*, IV (1934-1935), 483-513.

__________. "Puritanism and Liberty," *University of Toronto Quarterly*, IV (1934-1935), 395-404.

__________. *Puritanism and Liberty*. Chicago, 1951.

Woodhouse, Hugh Frederick. *The Doctrine of the Church in Anglican Theology, 1547-1603.* London, 1954.

Zagorin, Perez. *A History of Political Thought in the English Revolution*. London, 1954.